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CIS

LEGALIZATION OF ILLEGAL IMMIGRANTS

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY

OF THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

LEGALIZATION OF ILLEGAL IMMIGRANTS

OCTOBER 29, 1981

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LEGALIZATION OF ILLEGAL IMMIGRANTS

THURSDAY, OCTOBER 29, 1981

U.S. SENATE,
SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee was convened, pursuant to notice, at 10:05 a.m., Hon. Alan K. Simpson (chairman of the subcommittee) presiding.

Also present: Senators DeConcini and Grassley.

OPENING STATEMENT OF HON. ALAN K. SIMPSON, A U.S. SENATOR FROM THE STATE OF WYOMING, CHAIRMAN, SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY

Senator SIMPSON. The hearing will come to order.

Good morning. We have a bit more spacious quarters here than in the Veterans' Affairs Committee chambers. That is good or bad, whichever way you look at it.

It is nice to have you here this morning for another hearing in this continuing series of hearings which are being held by the Senate Subcommittee on Immigration and Refugee Policy in our effort to formulate what will be a hopefully comprehensive and sensible immigration reform package. I think I have shared with you my belief that nothing will be effective unless we have a three-pronged approach, which consists of employer sanctions, a secure worker identifier system, and increased levels of border and interior enforcement.

I have felt, and I still do strongly, that passage of those three measures presents the most workable means of reducing future flows of illegal immigration. But at the same time, I am very aware that nothing will be complete, nothing, until something is in place properly to address the fact that there are millions of illegal immigrants currently residing and working in the United States who might not be discerned through any kind of employer sanctions program, especially a law focusing only on new hires. Obviously, these persons would not be detected to any appreciable extent merely by expanding traditional interior enforcement measures.

We have been historically ambivalent—that phrase I think is very true here—in enforcing immigration laws. By failing to provide adequate resources and manpower to enforce these laws and by allowing the employment of illegal immigrants, we have passively condoned the illegal immigration system.

These people have been allowed to work and live in our country for a number of years without the benefit of legal status. I think

that most researchers generally concur that, other than their illegal immigration status, these people are very conscientious and productive residents. Many of them have settled into our communities and pay taxes. Some have children who are U.S. citizens.

So I feel convinced that legalization for a certain portion of the undocumented population now residing in the United States is in our national interest. Certainly it is not in our national interest to repeat the mistakes of the past and to attempt massive "roundups." I am getting so that I detest that term, so I will not use it. But that is what others refer to in this area: "roundups," "sweeps," deportations, which not only are costly in the future, but might very well jeopardize the civil rights of Hispanic citizens and might simply even drive the illegal population further underground.

So while supporting the administration's general policy on the need for a legalization program, I believe in the context of this hearing we might attempt to examine the exact shape the program might take. I think we must look at the following issues:

One, the timing of legalization with respect to new enforcement efforts;

Two, the residency requirement and the proof which will be needed;

Three, provisions for family reunification, how we will handle that;

Four, the equity of the legalization program with regard to those then waiting for legal visas;

Next, the impact of this population on services provided by local governments, the rights and the responsibilities of the participants in this program;

And finally, the ability of the Immigration and Naturalization Service to carry out a program of this dimension with existing resources.

So the legalization proposal is complex and controversial. But please raise your hand if you have seen an immigration proposal before us which has not been so far.

I believe the hearing record established today will be invaluable to all of us seeking this commonsense and hopefully workable immigration reform.

So with that we will have the panel consisting of: Doris Meissner, the Acting Commissioner of the Immigration and Naturalization Service, the Department of Justice; Ambassador Diego Asencio, Assistant Secretary For Consular Affairs at the Department of State; Wilford Forbush, Deputy Assistant Secretary of Health Operations, Public Health Service, accompanied, I believe, by Linda McMahon, Department of Health and Human Services; and Manuel Iglesias—is that correct?

Mr. IGLESIAS. Close.

Senator SIMPSON. Manuel Iglesias, Special Assistant to the General Counsel of the Department of Agriculture.

So if you would just proceed in that same listing as on the agenda, knowing the timing gong will be on. Thank you.

STATEMENT OF DORIS M. MEISSNER, ACTING COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

Ms. MEISSNER. Mr. Chairman, with your permission I will submit our full statement for the record and I will summarize a few points as an introduction.

Senator SIMPSON. Thank you. It will be accepted into the record.

Ms. MEISSNER. Our appearance here today is in support of title I of the administration's proposed immigration reform legislation. Title I provides for temporary resident status for illegal aliens presently in the United States. As you mentioned in your opening remarks, we would not be here in support of a legalization program absent the assumption that it would be accompanied by an employer sanctions program and by stronger enforcement, lest legalization on its own stand as a magnet for even greater immigration.

The elements of the administration's proposal for a legalization program include the following:

Eligibility would be conferred on those who could show that they were here prior to January 1, 1980. Persons who would qualify would gain a new status in the immigration law which does not presently exist. That status would be termed temporary resident alien. Temporary resident aliens would be eligible to adjust to permanent resident status after being in the United States for 10 years. Let me emphasize that that 10-year period would run from the time that they originally entered the United States, not from the time they registered and received their temporary resident status.

Temporary residents would be eligible to work in the United States. They would be eligible to travel in and out of the United States freely. They would eventually be eligible for the benefit of permanent residence and, 5 years thereafter, for citizenship.

They would not be eligible for any federally funded benefits such as AFDC, SSI, subsidized housing, food stamps, medicaid, and so forth.

The registration for the temporary resident program would occur during a 12-month period. After that one-time opportunity, there would be no other opportunity to obtain temporary resident status.

The legalization program represents important and difficult administrative issues for the Immigration and Naturalization Service to implement. We are not prepared to give you a full explanation at this point as to how we would implement such a program. We are doing a great deal of internal analysis and planning as to what the most effective way would be.

However, we can tell you at the present time that the program we would seek to administer would operate according to certain important basic principles. The most important element would be very, very substantial involvement of non-Government, non-INS personnel, and agencies. In other words, we envision working very closely with a whole range of "middleman" organizations somewhat like the way we presently operate the refugee program and admissions to the United States. In other words, we foresee substantial contacts with voluntary agencies with whom we already

have relationships, as well as a whole set of new agencies we propose to forge relationships with.

Second, we view the program as one whose overriding intention is to be as inclusive as possible. In other words, this is a program which would seek to streamline our procedures and eligibility requirements as much as possible to achieve widespread participation. Otherwise, we believe administratively we could defeat the purpose of the legalization program.

The third important element of administering a legalization program is that we envision it operating on a fee basis. In other words, while the costs of putting together this kind of a program are substantial, we believe that most of the costs to the Government would be offset by fees charged to the people. Ultimately, cost alone should not defeat our ability to have an effective program.

That completes our introductory remarks and I would be pleased to answer questions later. Thank you.

Senator SIMPSON. Thank you very much.

[The prepared statement of Ms. Meissner follows:]

PREPARED STATEMENT OF DORIS M. MEISSNER

Mr. Chairman and members of the Subcommittee:

I am pleased to appear before you today to testify concerning a legalization program for illegal aliens living in the United States. This program is one element of President Reagan's package of initiatives to curb illegal immigration. The specific focus of today's hearing is the proposed legislation which would provide a temporary residency status for illegal aliens in the United States who meet the qualifications established in this proposal.

As the Attorney General pointed out in his appearance on July 30, 1981 before the joint subcommittees of the Senate and House, the overriding purpose of this Administration's proposals, is to make our immigration laws and policies more realistic -- and to enforce those laws effectively.

In the last fourteen years, apprehensions of deportable aliens by the Immigration and Naturalization Service (INS) have increased twenty-fold. An average of one million illegal aliens have been apprehended during the last four years. A report by Census Bureau demographers for the Select Commission on Immigration and Refugee Policy estimates the illegal migrant population in the range of three and one-half to 6 million at any one time.

Many countries in Latin America, the Caribbean, Europe, Asia and Africa are sources of illegal migration to the United States. However, an estimated 60 percent of the illegal aliens in this country are Mexican nationals. We assume that the illegal migrant population is in part a temporary population which fluctuates seasonally. However, some migrants return to their homeland after stays of one to five years, while other illegal aliens come with the intention of staying permanently and do so. Violators of the immigration law are not only those who enter without inspection or with false or fraudulent documents, but also those who enter legally with nonimmigrant visas, and either overstay those visas, or violate their terms by working in the United States.

The exact characteristics of the illegal migrant population

are unknown. The lack of information on this population makes it impossible to determine the precise demographic or economic impact of illegal migration, but certain implications are self-evident. They do contribute to population growth in the United States and there are both positive and negative effects on the economy -- the migrants do useful work and expand economic activity but also compete with or at least affect adversely the wages and working conditions of some American workers in some occupations and locations.

Attempts by the federal government, including initiatives within the Congress, to formulate a policy to control the illegal migrant phenomenon have, so far, failed. Various states have taken action on the problem. A California law which prohibits the employment of illegal migrants was upheld by the U.S. Supreme Court; however, the California law, like similar laws passed by ten other state legislatures, has not been effectively enforced.

The presence of an ever increasing number of illegal aliens in the country clearly demonstrates that our prevailing national policies, intended to control the influx of immigrants across our borders, have failed.

The Administration is now proposing a comprehensive and integrated set of initiatives to regain control of the immigration process. These initiatives are premised on two facts: that there are between 3 and 6 million illegal aliens in this country; and that their numbers are continuing to grow from one-quarter to one-half million each year.

Together, these proposals should substantially reduce illegal immigration by increasing enforcement of existing programs; prohibiting the employment of illegal aliens; and expanding opportunities to work lawfully in the U.S. by raising immigration ceilings for Canada and Mexico, establishing the experimental 50,000 per year temporary worker program, and legalizing aliens who are illegally in the country at the present time.

Today, I will discuss the provisions of the temporary resident status for illegal aliens legislation. This legislation would

permit illegal aliens who were present in the United States prior to January 1, 1980, and who are not otherwise excludable, to apply for a new status of "temporary resident." This status would be renewable every three years, and after a total of ten years of continuous residence, from the date of entry to the U.S., temporary residents would be eligible to apply for permanent resident status and eventually citizenship.

The United States has neither the resources, the capability, nor the desire to uproot and deport millions of illegal aliens, many of whom have become integral members of their communities. By granting limited legal status to the productive and law-abiding members of these communities, this proposal acknowledges the reality of a situation that confronts us due to the failure of past policies.

The existence of a large illegal migrant population within our borders violates the basic concept that we are a nation under law, and this cannot be tolerated. The costs to society of permitting a large group of persons to live in an illegal status are enormous. Society is harmed every time an undocumented alien is afraid to testify as a witness in a legal proceeding -- which occurs even when the alien is the victim, -- to report an illness that may constitute a public health hazard, or to disclose a violation of U.S. labor laws.

In seeking a solution to this problem, the Administration has considered a range of options, including deportation efforts, the use of existing enforcement procedures and legalization. Attempts at massive deportation could be destructive to U.S. civil liberties, costly, could result in legal challenges and ineffective. The only time in U.S. history when such a massive deportation effort occurred was in the mid-1950's when the INS expelled or repatriated more than 1 million aliens.

Legalization--accompanied by new, more effective enforcement measures--is in the national interest of the United States for the following compelling reasons:

- Qualified aliens would be able to contribute more to U.S. society once they come into the open. Most illegal aliens are hardworking, productive individuals who already pay taxes and contribute their labor to this country. Any adverse impact of their presence on the economy has already been absorbed.

- The enactment of employers sanctions legislation would curtail further uncontrolled hiring of illegal aliens.

- Legalization would enable INS to target its enforcement resources on new flows of illegal aliens, and avoid devoting limited investigative resources to cases which involve aliens who claim equities under the law.

The Administration's bill permits immediate legalization of illegal aliens who entered the United States prior to January 1, 1980 and who have had a continuous residence in the United States since that time, by providing a "temporary resident status" for such aliens. The proposal provides for adjustment of status to that of lawful permanent resident for these aliens after they have completed ten years of continuous residence.

Thus, the Attorney General, in his discretion, will be able to grant "temporary resident status" to any alien who entered the U.S. prior to January 1, 1980, who has continuously resided in the U.S. since that time, if the alien is otherwise admissible to the U.S., with certain exclusion provisions waived. To be eligible for adjustment under this section, the alien would be required to register with the INS during the 12 month period which the Attorney General establishes for registration for legalization. An alien granted temporary resident status must renew his status with the INS every three years.

An alien granted temporary resident status may not bring his spouse or children to the U.S. and is ineligible for benefits under

Aid to Families with Dependent Children, Supplemental Security Income, the National Housing Act, Medicaid, and the food stamps program, but would be authorized by the Attorney General to work. This program attempts to deal with the reality of the situation today in practical terms, without intending to reward illegality.

The Administration has recommended that illegal aliens continuously resident in the United States since January 1, 1980, be eligible for legalization. The Select Commission staff estimated that under favorable conditions, as many as 60 percent of those illegal aliens now in the United States might qualify for legalization if the eligibility date were January, 1980 and the legalization program began in January 1982. This could mean as many as 3.6 million aliens could apply, if one assumes the upper limit of the illegal alien population estimate as 6 million.

Previous amnesty plans, which proposed changes in Section 249 of the Immigration and Nationality Act, have provided an ongoing mechanism through which illegal aliens could establish eligibility for registration as permanent resident aliens. A drawnout and piecemeal process for establishing eligibility for legalization, however, would only perpetuate an already serious problem. The Department, therefore, proposes a specified, 12 month, one-time only period during which applicants for legalization could come forward.

The experiences of other countries with legalization programs was also considered in determining the nature and limits of the Administration's program. The time allotted for the Australian legalization program was only three months; the Canadian amnesty lasted only 60 days. Both of these periods proved to be too short. It was impossible to gain the trust of the illegal alien population or even communicate adequately to them the provisions of the programs within such short time spans. In the view of the Administration, a longer eligibility period, such as one year, is more likely to reach an illegal alien population that represents a large stratum of our society and one that may be less than trustful of

the Government's intentions. If the time frame is unrealistically compressed, not all qualified illegal aliens will come forward to register under the INS-operated legalization program. Some will choose not to reveal their past lack of status; others will remain uncertain as to the program's benefits to them; and others simply will plan on returning to their countries of origin in the near future. The last would not be an unwelcome result. Certainly, some illegal aliens will go home -- not just those lacking the continuous residence requirement. A principal benefit to the Government of avoiding a drawn-out or continuously available legalization program is that it clears the way for swift and effective enforcement initiatives by INS to stem future flows.

It is anticipated that from 1.0 to 3.6 million persons might come forward and qualify under these circumstances. The experience of other legalization programs indicates that far fewer came forward than were expected or than could conceivably qualify. Only about one-third of the expected number came forward to register under the Canadian program.

The INS would depend on publicity through all media both to announce the basis for qualification under the legalization program and to explain the availability of assistance from private and public agencies for preparing applications.

We would foresee the voluntary agencies and selected community organizations playing an invaluable role as middlemen between INS and the illegal aliens, who previously have avoided any contact with the agency for fear of revealing their lack of legal status and risking deportation. Voluntary agencies have proven of inestimable value during the processing of Indochinese refugees for adjustment of status, both for contacting and advising applicants of the program and for assisting both the applicants and INS in the preparation of necessary forms and required documentation. These agencies, which are experienced in immigration counseling, could advise inquiring aliens of the terms of the legalization program and the likelihood of their qualifying for the temporary resident

status. To the extent that their documentary case for permanent residence is weak, the agencies could also counsel temporary residents how to substantiate their claims. Such information and advice would precede the submission of any application for temporary resident status to the Immigration Service. If an illegal alien had no claim or a doubtful one, the agencies would advise the illegal aliens of their eligibility for legalization without fearing that they might be detained and removed from the country at the time of their inquiry. However, they would not receive the new status without a review of their claim by INS personnel.

Aliens seeking legalization under the program would have to establish their date of birth, that they are employed or would be supported and would not become a public charge, that they entered the United States before January 1, 1980, and finally, that they have continuously resided in the United States since before that time. Examples of documents that could be used to prove residence would be: bankbooks, rent or tax receipts, licenses, birth or baptismal records of children born in the U.S., postmarked mail addressed to the individual; employment records; letters from business firms on letterhead paper giving specific dates of business dealings with the individual; letters from landlords showing the dates the individual lived on their property; utility receipts showing dates of service to the individual; and affidavits of credible witnesses who have personal knowledge of and can vouch for the continuity of residence of the individual. A report of medical examination on the standard INS form would also be required.

Unavoidably, the Administration's proposal to provide illegal aliens the opportunity for legalized status would place increased administrative and enforcement responsibilities on INS. INS would be required to screen and process the applications of those who seek to qualify under the program. Moreover, the requirement for an applicant to furnish evidence of entry before a certain date and for a specified continuous period of residence would likely gener-

ate an increase in the use of fraudulent or forged documents. INS is exploring new administrative procedures for assuming this anticipated increase in workload with some degree of facility and without sacrificing the concerns of security and records integrity. INS recognizes the need to adopt more innovative and more flexible operational procedures to make the program workable.

The Department proposes a ten year period of continuous residency to ensure a measure of fair and equitable treatment for all other applicants for benefits which fall within the provisions of the Immigration and Nationality Act. Today, the lists for many classes of visa applicants are oversubscribed. This simply means that more qualified persons seek to enter the United States than there are available visa numbers at any one time. Thus, spouses and unmarried sons and daughters of permanent resident aliens from Mexico have already been waiting six and one-half years for a visa for permanent residence. In other categories waiting periods are as great as 11 years from some countries.

In proposing the 10-year continuous residence requirement, the Department is solicitous of the rights and entitlements of those who apply legally and wait patiently for benefits under the Act. Thus, it would be manifestly inequitable to extend the extraordinary benefits of permanent residency to an applicant in illegal status, while at the same time withholding a benefit from a qualified applicant who has complied with all of the necessary provisions of the law.

Considerations of equity are also the basis for restricting aliens who are granted temporary resident status from bringing their spouse or children to the U.S. and for denying them benefits under various social welfare programs. If we were to apply the long-standing principle of family reunification to illegal aliens seeking temporary resident status, we would be extending them greater benefits than are now available to permanent resident aliens already in the U.S. Many permanent residents must currently wait from two to six-and-a-half years before they can be joined by their families.

In a practical vein, we estimate that most illegal aliens who would qualify are either single or already have their families in this country, and under the proposed provisions, they would not be forced to be separated from their families. Dependents already living in the U.S. would qualify for residency status in their own right, and would not face removal from their families. Even those temporary residents who were required to be separated could return to their homeland for regular visits with their families. By qualifying for temporary resident status, the illegal alien gains substantial benefits: the unimpeded right to work; freedom of travel to his or her homeland; and eventually, permanent residence in the United States.

The entitlement to permanent residency in the United States is viewed as an extraordinary benefit and has never been accorded lightly under the law. Thus, a lengthy period of continuous residence is required today for creation of a record of lawful admission under Section 249 of the Act. A petitioner seeking a suspension of deportation under Section 244 of the law must be able to show continuous physical presence in the U.S. for at least seven years in some instances and ten years in others in order to qualify for relief.

The ten-year period of continuous residence prior to qualification for permanent resident status and the requirement of English language ability have been criticized by some groups as unnecessary and onerous. I have already spoken of fairness concerning persons who have waited patiently and legally for admission to the United States. A ten-year period of temporary residence provides both the alien and the United States sufficient time to carefully consider the proper disposition and qualifications of the applicant for integration into our society. We would expect few if any of those otherwise qualified individuals who had spent ten or more years in the United States to be found lacking the minimal English language ability required by the law.

I should also point out that certain eligibility provisions

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for adjustment of status in the proposed legislation that pertains to Cubans and Haitians are more lenient than the ten-year residency provisions for illegal aliens.

Thus, the Cuban/Haitian proposal would allow most of the undocumented Cuban and Haitian entrants to regularize their presence by applying for a new "temporary resident" status. After five years of continuous residence in this country, such Cubans and Haitians could apply for permanent residence, providing they were self-sufficient, had minimal English language ability, and were not otherwise excludable.

The 1980 Mariel boatlift brought a wave of 125,000 Cubans to the beaches of south Florida. Among those persons were criminals and mentally ill, some of whom were forcibly expelled by Fidel Castro. Notwithstanding its moral obligations to do so, the Cuban Government has refused to allow these individuals to return to Cuba. The majority have been preliminarily processed for consideration of their claims for asylum and released to sponsors in communities nationwide.

Furthermore, there is a continuing migration to Florida of undocumented aliens from Haiti and elsewhere. Although the government of Haiti is willing to accept the return of Haitians deported by the United States, exclusion proceedings have been blocked by time-consuming judicial challenges to Immigration and Naturalization Service proceedings.

With regard to this Cuban/Haitian class of approximately 160,000, there is little likelihood that the majority can ever be returned to their homelands. In fact, Congress itself has recognized the intrinsic difficulties in dealing with this class of undocumented arrivals and asylum claimants fairly and evenhandedly, and has already provided them special benefits through the Fascell-Stone Amendment to the Refugee Education Act of 1980 during their tenure as Cuban/Haitian entrants.

The Administration endorses the position of the Select Commission on Immigration and Refugee Policy that a one-time legalization

program is a necessary part of an effective enforcement program but the Administration does not believe that the United States should begin the process of legalization until new enforcement measures have been instituted to make it clear that we are determined to curtail new flows of illegal aliens.

The Administration realizes that without more effective enforcement than the United States has had in the past, legalization could serve as a stimulus to further illegal entry. The Administration is opposed to any program that could precipitate such a movement. Further, the absence of effective enforcement could lead to a low participation rate in the legalization program. Continuation and enhancement of enforcement efforts in this country should encourage many illegal aliens to regularize their status under the legalization program. Thus aliens found as a result of INS operations during the 12-month period of the program would be given the opportunity to apply for consideration. Upon the conclusion of the 12-month program, however, any illegal alien apprehended, even if formerly technically qualified for this one-time program, would be immediately removed from the United States.

The policy of the United States regarding illegal aliens must be clear: this nation will offer legal permanent residence to those who entered illegally during a period of ambiguity in the United States' attitude towards illegal migration, but it will no longer tolerate the continued entry or employment of an illegal, group of residents. I will be glad to answer any questions you have concerning the proposed program for affording illegal aliens temporary resident status in the United States.

Senator SIMPSON. Diego Asencio, please.

STATEMENT OF DIEGO C. ASENCIO, ASSISTANT SECRETARY FOR CONSULAR AFFAIRS, DEPARTMENT OF STATE

Mr. ASENCIO. Mr. Chairman, again with your permission, I would like to present my prepared statement for the record and summarize very briefly the crux of my message.

Senator SIMPSON. Without objection.

Mr. ASENCIO. It is always a delight and an honor to appear before this committee. The remarks that you were making at the beginning of this session struck me as particularly appropriate, in the sense that I consider that the legalization of the large number of illegal aliens we have here is the only tenable solution to the problem.

I consider that mass deportation is really unthinkable in these terms and probably impractical. I also consider the other alternative, of not doing anything with this group, also similarly unthinkable.

Following also on another point you made in a slightly different context, we have to consider legalization as only one element of the comprehensive approach the administration has taken to this problem, and not consider it solely on its own terms, but as part of the overall approach. It makes much more sense that way, and some of the arguments that could be made specifically against the legislation program disappear I believe, once one considers it as part of a comprehensive package. It is not an isolated program, but part of a much larger overall package.

One aspect I would like to note from the standpoint of the consular service, and that is the relatively extended period for qualification, that is, the 10 years or less. By the time the legislation is approved there may already be a 2-year hiatus between the January 1, 1980, eligibility date and when the program begins. This would permit us to phase the follow-on of the relatives and other people who would receive entitlements as a result of these people achieving permanent resident status, and I think that is an important consideration from the standpoint of consular resources.

I think it should also be mentioned that one of the best rebuttles against the sharpest criticisms I have heard with regard to the mistreatment of illegal workers, specifically with regard to our relations with Mexico, is that this is the surest way to guarantee the rights of those who are here illegally and to make certain that they are fully protected by the usual norms of our society.

Thank you.

Senator SIMPSON. Those are very important remarks.

[The prepared statement of Mr. Asencio follows:]

PREPARED STATEMENT OF DIEGO C. ASENCIO

Mr. Chairman, Members of the Subcommittee, I am pleased to participate today in your discussion of one of the most important elements of the President's overall immigration program - the proposal to grant limited legal status to certain illegal aliens. As you pointed out in your letter inviting my Department to this hearing, Mr. Chairman, this issue is quite controversial, and has aroused much impassioned discussion.

I, for one, find it puzzling and unfortunate that this subject should be so controversial, since I can see no other tenable solution to the problems posed by the presence of such a large number of aliens illegally in the United States. No one knows precisely how many there are. Estimates have varied substantially, but those most generally accepted range from 3.5 to 6 million. Now, it goes without saying that any program of comprehensive reform of our immigration laws and policies, such as the President has proposed, must address this phenomenon. Careful analysis shows that there are three, and only three, possible courses of action to deal with those who are already here: (1) ignore the situation, allowing illegals to remain in their current status while their numbers grow; (2) massively round up and deport those here illegally; and (3) devise a procedure through which to legalize the status of those who have established themselves in the United States. In order to deal with future illegal entry, the other elements of the President's program - specifically, the employer sanctions legislation and increased enforcement measures - must be enacted together with this proposal.

Few, if any, could support the first course of action. Permitting illegals to remain in their current status would simply perpetuate all the evils and costs to our society attendant upon

this situation. On the other hand, some persons are attracted to the proposal that those here illegally should be deported. Perhaps, in theory, this is attractive, but it simply is not feasible. The 3.5 to 6 million illegals are here because the Government could not prevent their entry in the first place, or because it has not been able to effect their departure. The figures we use in this area are nothing more than estimates. This being so, one must consider the magnitude of the effort which would be required to locate, process and deport 3.5 to 6 million or even more people. Moreover, it would be my judgment that the people of the United States would not tolerate the spectacle -- which would be visible to all on television -- of the far-reaching round-up and expulsion including, certainly, accidental civil and human rights violations, which would result from such a massive undertaking. I am aware that one may cite polls in general support of massive deportion. But I have to wonder whether the individuals who responded to those polls generally would react the same way if it came to specifically approving of the removal of neighbors, friends, co-workers, and others whom they know personally.

Analysis, thus, leads to the conclusion that the most feasible, practical and tenable solution is to legalize the status of aliens here illegally who have made positive contributions to our society. This is precisely what the President's probation approach will do. Under the President's proposal, aliens who entered the United States prior to January 1, 1980, and have resided here continuously since that time will be eligible for permanent residence under specified conditions. The conditions of general significance are: they must register with the Immigration and Naturalization Service within 12 months after the registration program begins; they must have resided in the United States for ten years since their entry; and they must <u>not</u> have committed serious crimes that would generally make them ineligible to enter the United States. In addition, they will need to demonstrate an

understanding of the English language. During the period between the time they register and the expiration of the ten-year residence period, they would be granted temporary resident status in three-year increments, renewable as needed until they reach the required ten years. During this interim period the aliens would have permission to work and would be able to make temporary visits abroad (presumably to families) and return, but would be unable to bring their spouses or children from abroad to join them in the United States. This proposal, which varies in its details from other proposals which have been and are now being made, is a part of the President's overall program for comprehensive reform of foreign entry into the U.S.

The proposal is admittedly controversial precisely because the issues are tough and complex. It has been claimed by sceptics, for example, that the requirements for eligibility under the President's legalization proposal are so stringent that many aliens illegally here will not come forward. If the proposal were to be made in isolation and enacted apart from the other elements of the President's program, these critics might have a point. If, however, the President's proposals for employer sanctions are enacted in conjunction with this proposal as a part of his overall program, remaining illegal would be much less attractive. The existence of employer sanctions and increased enforcement efforts by the Immigration and Naturalization Service and the Department of Labor will eliminate most of whatever incentive there might otherwise be for aliens to ignore the legalization program. Furthermore, the President's proposal would result in a phased program of legalization which would greatly lessen the possible disruptive effects of an immediate grant of permanent residence status to all illegals.

It has also been asserted that the requirement for ten years continuous residence is too rigorous. Yet, at least some of the

aliens who will benefit from this program have already been in this country that long. Others will meet the requirement within a relatively short time. Even the most recently arrived among those who can benefit will very soon have been here for two years. In summary, if one examines this requirement from existing realities, it appears in a much different light.

On the other hand, a phased program of this kind will result in substantial benefits for this country. First, it will make it possible to verify that the aliens seeking to qualify under the legalization program actually do meet the requirements which are established for eligibility. Because of the ten-year residence requirement, applications for permanent residence by beneficiary aliens will be phased throughout the period. All beneficiaries will, of course, have to register initially within the prescribed twelve-month period, but their applications for permanent residence will necessarily be filed in stages throughout the period as they individually reach the requisite ten years residence.

Another benefit of the President's proposal is that it will contribute significantly to easing the impact of "follow-on" demand for immigration by relatives of the legalized aliens. Under other proposals which have been and are now being considered, the beneficiary aliens would become eligible for immediate permanent resident status. Thus, the initial part of the "follow-on" demand (spouses and unmarried sons and daughters who are abroad) would come forward immediately and in a block. Likewise, the second stage of the "follow-on" demand (the other relatives who receive preferential status from citizens) would come forward as a block between three and five years later. Under the President's proposal, however, since the legalized aliens would receive permanent residence in annual increments over a period of about eight years, the "follow-on" demand would be similarly

phased over a like period. This phasing process would make it at least theoretically possible that the "follow-on" demand could be accommodated under the annual limitations on immigration without creating enormous backlogs of qualified immigrants. I must admit that the size of this "follow-on" demand could be of a size to add to current backlogs, but at least the phased approach proposed by the President allows for the possibility that it might ease the pressure, whereas other proposals for legalization do not.

This completes my opening statement. I am ready to respond to any questions you may have.

Senator SIMPSON. Mr. Forbush, please.

STATEMENT OF WILFORD J. FORBUSH, DEPUTY ASSISTANT SECRETARY FOR HEALTH—OPERATIONS, PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY LINDA McMAHON

Mr. FORBUSH. Thank you, Mr. Chairman.

I too would like to submit my statement and just summarize it briefly here.

From the public health point of view we believe, given the data we have, which are not particularly extensive, that this change in the law to accord temporary resident status would not have a significant impact on the health care system. We say this because the population is here and to a certain extent it is receiving care now.

We see that the change to legalized status would improve things, in that the population that is covered by some health insurance—and some of these workers are now covered by health insurance—would be less reluctant to claim their benefits, or for other people to be covered who are not now covered.

We also think that if it would lead to medical care earlier in an illness, rather than people going only when they are desperate, this too would be of benefit to the health care system and to governmental funding of health care programs.

With regard to social security, the social security retirement system. Illegal immigrants are not barred from participating in that now. The entitlement is earned by the contributions made from covered employment, and this law would not change that situation.

The bill would propose not to extend other public welfare benefits to this population, such as supplemental security income for the aged, blind and disabled, medicaid or aid to families with dependent children, with one exception. We would propose to cover those who acquired a disability because of work in the United States. We would make them eligible for welfare benefits under SSI and the attendant medicaid benefit. We think this would be a

relatively small population and would not have a significant impact on this program.

Thank you.

Senator SIMPSON. Thank you very much.

[The prepared statement of Mr. Forbush follows:]

PREPARED STATEMENT OF WILFORD J. FORBUSH

Mr. Chairman, and members of the subcommittee: I am Wilford Forbush, Deputy Assistant Secretary for Health-Operations, in the Public Health Service of the U.S. Department of Health and Human Services. With me is Ms. Linda McMahon, Associate Commissioner for the Office of Family Assistance in the Social Security Administration. We will address the health and income maintenance aspects of the Administration's proposal to grant a limited legal status to illegal immigrants now in the country.

Temporary resident status

The President's proposals for reform of the immigration laws include legislation to provide a temporary residency status for illegal aliens in the United States who meet certain qualifications. Illegal aliens who were present in the country prior to January 1, 1980, and who are not otherwise excludable, could apply for a new status of "temporary resident." This status would be renewable every three years, and after a total of ten years of continuous residence, from date of entry into the U.S., they would be eligible to apply for permanent resident status, and eventually for citizenship. An alien granted temporary resident status could not bring a spouse or children to the U.S. They would be authorized to work by the Attorney General.

They would not be eligible for benefits under National Housing Act Programs or the Food Stamp program, or Aid to Families with Dependent Children. In general, they would not be eligible for aid under the Supplemental Security Income (SSI) program or Medicaid, although they could receive disability benefits under the SSI program, for disabilities incurred in employment, and could receive Medicaid assistance based on such SSI

We know there are some concerns about the impact of the proposed legalization of these immigrants on our health and welfare systems.

Characteristics of the population

It is difficult to be precise about the impact, since there is little hard statistical information about the population we are considering, but certain judgments are possible. Estimates of the number of such persons now in the country range from 3 to 6 million. They are mostly male. The overwhelming majority are between the ages of 18 and 36.

Likewise, the vast majority are employed; in most instances the primary motivation for entering or remaining in the United States is employment.

Health care impact

In light of what we now know about the characteristics of this population, we believe that the proposed legalization is unlikely to have a major new impact on the health care system. The population in question is in this country now, and is using existing services. Because of its age, and working character, we would not expect this population to be a user of health services to an inordinate degree; it lacks the very old and the very young who tend to need health services more intensively.

Another factor that should be considered is the availability of health insurance. Some illegal immigrants already have health insurance; studies cited by the Select Commission on Immigration and Refugee Policy show that among some groups of illegal aliens who were surveyed, 25 to 40 percent had health insurance.

It is possible, of course, that some of these illegal aliens have been avoiding institutional sources of health care because of their illegal status, and that they will seek services once their status is regularized. Although it is impossible to be certain, we believe it unlikely that the numbers of people who would newly seek service on this basis would add a significant new burden to health care services. There are shifts in population and fluctuations in use of health services for many reasons, and our assumption is that the new demands for service would be of a similar order of magnitude.

I should point out that there would be distinct advantages for the health care system as well as for the temporary resident aliens if they could seek health care openly and without fear. In public health activities, some health departments currently expend funds for outreach and follow-up activities for illegal aliens who give inaccurate locating information because of fear of deportation. Also, illnesses can frequently be treated more effectively and at less cost when dealt with early, before they reach the emergency stage.

The proposal does not prohibit eligibility of temporary residents for services under Federally-funded direct grant health programs, or programs operated by States with Federal funds under Block Grants. These programs, such as Community Health Centers, Migrant Health Centers, and preventive health services, historically have not been required to inquire into the immigration status of their patients. We assume that these programs provide services to a number of illegal aliens, but the PHS does not collect information on immigration status. Eligibility for services under the Block Grant statues and regulations is not dependent on this factor.

Now I would like to address the effect of the proposal on the Medicaid, Social Security, Supplemental Security Income (SSI), and Aid to Families with Dependent Children (AFDC) programs.

Medicaid

Illegal aliens are not now eligible for Medicaid, and as I have noted, temporary residents would not be eligible for Medicaid benefits under the terms of the proposed legalization, except for cases in which a temporary resident becomes disabled and receives SSI benefits, with attendant Medicaid coverage. But we expect few of them would be eligible for regular Medicaid benefits in any case, since most should not fall into one of the categories covered by Medicaid, i.e., aged, blind, disabled, or in a family with dependent children deprived of the support of one parent.

Social Security coverage and benefits

In general, the Social Security status of aliens who are now working in covered jobs would not change if they were eligible for the proposed temporary resident status. In most cases aliens are already paying Social Security taxes and, under current Social Security law, could become eligible for Social Security benefits on the basis of that covered work.

It is important to note that, unlike the Medicaid, AFDC and SSI programs, the law governing the Social Security program does not prohibit payment of Social Security benefits to illegal aliens. If a person has worked long enough in covered employment to be insured, Social Security benefits are payable to the worker (and to qualified auxiliaries and survivors) regardless of whether the worker (or family member) is an illegal alien.

Further, Social Security coverage is generally based on whether the job is covered. The legality of the worker's status under the Immigration and Nationality Act is usually immaterial in determining whether his or her earnings are covered under Social Security. The fact that a person is an alien illegally in the U.S. -- or legally in the U.S. but not permitted to work here -- does not change the situation. Under current law, an alien worker's job would in most cases be covered under the program, and he or she would pay Social Security taxes and get Social Security credits.

Data regarding the number of illegal aliens who qualify for Social Security benefits do not exist.

Supplemental Security Income (SSI)

Let me move on to the status of illegal aliens under the SSI program. Illegal aliens are prohibited by law now from receiving benefits in this Federal program of payments, based on need, to the aged, blind, and disabled. Under the proposal, temporary residents would in general be ineligible, with one limited exception. They could receive SSI disability benefits if the disability was incurred directly from employment. In all other cases, these aliens would be able to receive SSI benefits only upon being granted permanent resident status, and only if they met the specific eligibility requirements of the program.

Aid to Families with Dependent Children (AFDC)

In the program of Aid to Families with Dependent Children (AFDC), operated by States with Federal participation to aid children deprived of the support of a parent, illegal aliens are not eligible for benefits. The Administration's proposal would not alter this situation for the temporary residents, but

those ultimately admitted as permanent residents would then be eligible if they met the program's requirements.

It is difficult to predict with any great certainty the AFDC impact of creating a temporary resident status for illegal aliens now in the country. Under the Constitution, the U.S.-born children of illegal aliens are U.S citizens. They are eligible for AFDC assistance regardless of the status of their parents, and some of these children may already be receiving benefits. It is possible that the legalization would increase the number of aliens who apply for AFDC for their eligible children since fear of detection and deportation would be removed. We do not know whether this increase would be significant.

We believe that the proposal to give illegal aliens a limited legal status in the United States will not have any serious negative effect on the health and social welfare systems of the country.

Senator SIMPSON. Next, Mr. Iglesias.

STATEMENT OF MANUEL IGLESIAS, SPECIAL ASSISTANT TO THE GENERAL COUNSEL, DEPARTMENT OF AGRICULTURE

Mr. IGLESIAS. Thank you.

Mr. Chairman, I too would like to submit a statement for the record and take this time to summarize our major points.

I appreciate the opportunity to testify on behalf of the Department of Agriculture concerning the legalization provisions proposed by the administration. I would like to add that Mr. Barnes, the General Counsel, was not able to make it this morning, so I am taking his place. I am his special assistant.

The substance and administration of the legalization provisions were outlined in the testimony today by my colleagues. I would like to direct my testimony to the importance of the program to the sector of the economy for which the Department of Agriculture has primary responsibility.

In the Department's testimony last Thursday before this subcommittee, we detailed to what extent the agricultural sector relies upon migrant labor, mostly aliens, during the critical harvest season. This need for temporary alien labor is very important and will continue long after the immigration and refugee control program is enacted by Congress. The form of the immigration program

will have a significant impact on agriculture and on whether the supply of legal workers will be available to meet our needs.

The Department believes the administration's package is responsive to the need to address the issue of illegal immigration to the United States, while maintaining opportunities for legal aliens to work lawfully in the United States. In assessing the effect the package will have on agriculture, we must again emphasize the importance to agriculture of a close interrelationship between the proposed legalization program, the employer sanctions, the temporary worker program, and the current H-2 program.

The legalization provisions are envisioned to legalize a large percentage of the illegal alien population, which is presently estimated at between 3.5 and 6 million people. We cannot be certain, however, about the numbers of illegal aliens currently residing in the United States, and of that number what percentage will actually apply for legalization.

It is likely some of the aliens who are currently working in agriculture will apply and will be eligible for the program. At the same time, a significant number, we feel, of those currently working in agriculture and returning periodically to Mexico may indicate no desire to become permanent residents of the United States.

The administration's program as a whole, together with the available domestic labor and the H-2 program, can provide an adequate supply of legal labor to agriculture. As we stated in our previous testimony before this subcommittee, the combination of legalization of a significant part of the agricultural work force and the employer sanctions will have the salutary effect of not disrupting the current employment of those who have been here. It will also help restore respect for the law to a sector of our economy where the employer as well as the employee face serious problems because of the extensive use of illegal aliens.

At this time I will be happy to respond to any questions on this subject. Thank you.

Senator SIMPSON. Thank you very much.

[The prepared statement of A. James Barnes, submitted by Mr. Iglesias, follows:]

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Prepared Statement of A. James Barnes

I appreciate the opportunity to testify on behalf of the Department of Agriculture concerning the legalization provisions proposed by the Administration as part of the immigration and refugee policy package.

The substance and administration of the legalization provisions are outlined in the testimony today of my colleagues from the Immigration and Naturalization Service and the Departments of Justice and State. Rather than repeating that information, I would like to direct my testimony to the importance of the program to the sector of the economy for which USDA has the primary responsibility.

In the Department's testimony last Thursday, I detailed the considerable extent to which the agriculture sector of our economy relies on migrant labor, primarily aliens, during the critical harvest season. This need for temporary labor on a reasonable basis will continue after an immigration and refugee control program is enacted by Congress. The form of the program will have a significant impact on agriculture and on whether the supply of legal workers will be available to it to meet its needs.

The Department believes that the Administration's package is responsive to the need to address the issue of illegal immigration to the United States while maintaining opportunities for legal aliens to work lawfully in the United States. In assessing the effect the package will have on agriculture, we must again emphasize the importance to agriculture of the close inter-relationship between the proposed employer sanctions, legalization provisions, and temporary worker program--and the current H-2 program.

The legalization provisions is envisioned to legalize a large percentage of the illegal aliens population, which is presently estimated at between 3.5 to 6 million people. We cannot be certain as to the number of illegal aliens currently residing in the United States who will apply for legalization. It is likely that some aliens who are currently working in agriculture will apply for and will be eligible for legalization. At the same time, a significant number of those currently working in agriculture return periodically to Mexico and evidence no desire to

become permanent residents of the United States. This probably distinguishes agriculture from other sectors of the economy as to the impact legalization will have on their existing workforce.

The Administration's program as a whole, together with available domestic labor and an H-2 program can provide an adequate supply of legal labor to agriculture. As we stated in our previous testimony before this committee, the combination of legalization of a significant part of this country's workforce and employer sanctions will have the salutory effect of not disrupting current employment of those who have been here and helping to restore respect for the law to a sector of our economy where the employer as well as the employee face serious problems because of the extensive use of illegal aliens. The effective implementation of the Administration's immigration reform package -- including the legalization provisions -- will help this country regain control of its borders.

I will be happy to respond to any questions you may have.

Senator SIMPSON. I will just ask questions individually or if you have a deep desire to respond in certain cases, you may do so.

Mrs. Meissner, under the proposed legalization program the temporary resident permits would be renewable at 3-year intervals. This would seem to impose a considerable administrative burden on the INS. What is the rationale behind that 3-year renewal requirement and will the INS be able to handle in any way that increased workload of up to 3–6 million cases every 3 years without substantial increases in resources and manpower?

Ms. MEISSNER. The 3-year review is an attempt to build into the program a kind of protection, an opportunity to update information and update the validity of the status of people who are here on this temporary status, as it is a new status which we have never had in the law before.

Of course, it brings about an additional administrative responsibility that does put a burden on the Immigration Service. We believe that the 3-year review can be done in the large majority of cases in a very, very quick fashion. We have some ideas which are not yet final, but which we believe will be administratively workable in order to complete the 3-year review in a very efficient fashion.

Senator SIMPSON. Well, I might ask, what will they have to verify at a 3-year interval that they did not disclose initially?

Ms. MEISSNER. The 3-year interval would most likely be an opportunity to be certain that the person is still working, and not in fact a public charge. Beyond that, any particular circumstances that might arise, such as a subsequent criminal record or circumstances which would create a legal bar, would be reviewed.

But the principal need is for us to satisfy ourselves that people are working and are not public responsibilities.

Senator SIMPSON. In your remarks in your written testimony, you state that the INS is exploring new administrative procedures for assuming this anticipated increase in the workload with some degree of facility and without sacrificing the concerns of security and your records' integrity. The records integrity in the INS has always left me with a hollow feeling, but I am greatly concerned that they cannot even manage their current workload. We know that from the Kratzke study and other indicators.

I would ask what specific steps which haven't yet been taken to address the issue of existing backlogs might be used so that the agency isn't simply totally overwhelmed under any legalization program? And for instance, let us say that if we had legalization next year, a gloriously charitable statement, would the agency have the improvements in place within the time necessary to implement the legislation?

Ms. MEISSNER. We do, as you note, have a problem of backlogs and a problem of a heavy workload. There are a whole series of measures underway which are being put into place right now to deal with that backlog in a far more effective fashion than we have in the past. We are not only putting more people and effort into processing applications; we are taking certain steps to eliminate a variety of procedural examinations we have made in the past, which we have found by statistical review are simply not worth the time and effort we put into it.

We believe by the time a legalization program is law and ready to be implemented we will have come a long way from where we presently are in being up to date in our current caseload. With a legalization program, we have an opportunity to do things from a fresh start. In other words, we will not be dealing with inherited records in most cases and with inherited case problems.

We would set this up as a separate program, relying heavily on non-INS personnel, with INS providing only a final review. We will deal with program documentation in a way we have presently not done with applications that come in.

We also believe that if and when the legalization program passes, Congress would write in a delay period of perhaps 6 months after the bill passes before actual implementation occurs, so that we have a sufficient period of time to do a large publicity campaign as well as all of the other administrative preparations that are necessary.

And taking all of those factors together—the things we are presently doing, a period to prepare publicly once the bill is passed, and a whole set of new procedural and systems steps to actually implement it—that we can do an effective job.

Senator SIMPSON. You stated the INS estimates that most illegal aliens who would qualify are either single or already have their families in this country. Upon what evidence do you make that estimate or statement?

Ms. MEISSNER. The evidence, of course, is not extensive. We are operating on guesstimates. One of the reasons the legalization program has been set up with the 10-year requirement for permanent

residence is because we have so little information on what the ripple effect will be of legalizing this population.

The information available, however, which is based upon limited research of samples which are not necessarily totally random, shows that somewhere in the neighborhood of 60 to 70 percent of the people who are illegally in the United States have a family and 60 to 70 percent of those family members are in the United States already. And that is the best evidence that we have, based on a study done fairly recently for the Select Commission.

So we are using that as our basic framework for trying to understand what the family effect would be.

Senator SIMPSON. With the proposed legalization program to have a cutoff date of January 1, 1980, would you anticipate aliens who entered illegally after that date might be given special priority to participate in a pilot temporary worker program if we should decide to go to that? Or would you think that program would be unrelated to the illegal flow and the stemming of it?

Ms. MEISSNER. We thought of it as administratively unrelated. We have not tried to fashion something where the first applicants would be people in the United States in this hiatus group. But as a practical matter, it seems to me that it is entirely likely that people who are in the United States and are ineligible for the temporary resident program, at least those who are Mexican, might return to Mexico and apply for the temporary worker program.

The temporary worker program as it is proposed recruits Mexican nationals. Those people who are in the United States and have some knowledge of what is occurring and some ability to assess their own chances in relation to the new laws, may return home in order to avail themselves of this benefit.

Senator SIMPSON. Let me ask you, if we adopt this proposal as presented by the administration and a legalization takes place, then the equities for qualifying must be considered, various elements of proof such as rent receipts, tax returns, social security payments, and so forth. How closely will the INS be examining these documents that are presented as proof of continuous residency in the United States? Will those documents be confiscated after they are obtained or will they then be returned? And if they are returned, how do we prevent their use with a subsequent individual?

Ms. MEISSNER. We will not be confiscating documents. We do not at the present time confiscate documents. We make copies of birth certificates and other documents which are the basis for giving benefits.

If the original documents go back to people who are eligible and are used by someone else, the other person would have to use a false name, because all documents are related to someone's name. So it doesn't seem to me that that is a terribly great risk.

One of the things we are looking at closely is the degree to which we need a range of different kinds of proof and different documents. The more precise you get about documenting any particular case, the more administrative burden there is and the greater the possibility for not being able to handle the numbers of people we are talking about.

We need to strike a balance administratively between safety and protection and some kind of overall efficiency. We will have some better answers on the questions of what documents will need to be shown and so on when we complete the review. But in no case would I envision our taking from people the only basis they have for proof of who they are.

Senator SIMPSON. Or where they have been living or what they have been doing?

Ms. MEISSNER. Exactly. That would have to be shown, but it would be copied.

Senator SIMPSON. One question and then I will come back to other members of the panel.

How is this requirement of continous residence likely to be defined? Why is that not clarified in the statutory language, in the definition language of the proposed statute?

Ms. MEISSNER. Continuous residence is a concept that we use frequently in the immigration area. It is not new to this program. Continuous residence is a requirement for citizenship, for example.

Continuous residence is essentially established by self-declaration of the applicant in an affidavit form. He swears to having been here over a certain period of time. In the case of naturalization, witnesses attest to that, but those witnesses really have very little way of knowing whether he had been gone 3 weeks during the year or whatever.

An absence of 3 to 6 weeks has never been considered an absolute denial of our ability to find that continuous residence had occurred. We would intend to apply that term in this program in the same way we have applied it in the past.

Senator SIMPSON. All right.

Ambassador, I would ask you: A number of the community organizations working with illegal immigrants stated to us that a substantial portion of the illegal population consists of persons who have legal family reunification visas pending as a part of the backlog of almost 1 million persons. Would you agree with that assessment?

Mr. ASENCIO. Yes, sir. That is an estimate, but I am not sure there is a million backlog. Our figures would indicate that we have in Mexico a total backlog of about 380,000. And perhaps as many as, oh, 120,000 could be people who are awaiting action on that backlog.

Senator SIMPSON. The 380,000 for Mexico; it may be 1 million, then. It may total 1 million in the other backlog categories.

Mr. ASENCIO. Yes; exactly.

Senator SIMPSON. If it is so, as you indicate, that a significant proportion of family reunification has already occurred illegally by relatives of both illegal immigrants as well as permanent residents and citizens who have applications pending within the legal system, does it not then seem appropriate or fair to assume that a 10-year wait for permanent resident status will actually result in a continuation or a perpetuation of that trend?

Mr. ASENCIO. I would think that a legalization proposal would probably offer entitlements that would remove them from the backlog, and would have a beneficial effect, certainly, on the backlog.

Senator SIMPSON. I guess I am particularly concerned about that trend because of the estimate by the Mexican Ministry of Labor that the majority of Mexican illegal workers in the United States have an average of three persons within their homeland, in their home village, who are dependent upon the remittances they send home.

Mr. ASENCIO. Yes. But what we are thinking, Mr. Chairman, is that most of the people in the category you indicate have already been here for substantial periods of time and will not have to wait for the entire 10-year period.

Senator SIMPSON. Well, that 10-year residency requirement causes me concern, in any event.

Mr. ASENCIO. What I am saying is that most of the people we are talking about have already spent practically that entire period here, so they would have an immediate entitlement.

Senator SIMPSON. Could you assist us and elaborate upon the equity of allowing the illegal immigrant to remain in the United States, obviously earning several times the wages possible in his homeland, and being reunited with relatives who may be here, while we would deny those rights to those who have tried to go through the legal system?

Do you recall the reasons why the administration rejected some of the considerations of the Select Commission with regard to the current legal backlog and the phasing in of those backlogs in conjunction with a legalization program?

Mr. ASENCIO. Yes, sir. We consider that the 10-year period in effect provides the means by which legal status would be earned. It would not be—some may be eligible for immediate entitlement, but I would say the bulk would nevertheless have to earn their way to a legal status. And on that basis I think the matter of equity between those who are backlogged and those who are already here is handled in a sufficiently honorable manner.

In other words, I think your thesis would apply if there was an immediate concession of permanent resident status to illegal aliens. But once you concede them temporary status, which is as much for our benefit as it is for theirs, and require a relatively extended period of time before they can acquire permanent resident status, I think the issue of equity between those in the backlog and those here no longer applies.

Senator DECONCINI. Mr. Chairman.

Senator SIMPSON. I want to thank Senator DeConcini, who has been a very active member of this subcommittee. I apologize for not recognizing you earlier, Mr. DeConcini.

Senator DECONCINI. Mr. Ambassador or Ms. Meissner, if I understand the program from Mrs. Meissner's testimony, the 3-year period would begin as of January 1, 1980. Would the person who would fall into this category be able to prove they had been here for 10 years and would that accrue to their time?

Mr. ASENCIO. That's right. It would be retrospective.

Senator DECONCINI. It would be retrospective?

[Mr. Asencio nods affirmatively.]

Senator DECONCINI. How do they prove that?

Mr. ASENCIO. There I would defer to Mrs. Meissner.

Ms. MEISSNER. A variety of ways. We will be very inclusive on the kinds of evidence we accept. Normally we ask for rent receipts, stubs from paychecks, statements from employers that people have been working, statements from others who have known them; a range of ways of showing that someone has been here.

Senator DECONCINI. First of all, let me compliment the administration for offering a proposal for amnesty or legalization. I think it is important to also make reference in your general statement that it must be part of a comprehensive plan.

But let me just take the devil's advocate position. Doesn't this long, detailed way of proving residence, require No. 1, that you were here so that the period could commence to toll, plus requiring 10 years if you just came or if you just wanted to say you were here as of January 1, 1980—are you really not placing a huge administrative burden on INS and our Government?

And is it not really better to think about an expedited process, either we are going to do it or we are not, either we are going to legalize these people and permit them to continue in this country without this cloud of renewal every 3 years and requiring them to be on a temporary status, a temporary resident for 10 years? Was that given serious consideration?

Ms. MEISSNER. Yes. Any legalization proposal has the potential for being an administrative nightmare. There is no question about that.

Senator DECONCINI. Would it not be easier to speed it up?

Ms. MEISSNER. There is always the problem of trying to balance what is salable conceptually, given the fact any legalization program is in its simplest terms a reward for illegal behavior, and balancing that against what is efficient and effective as an administrative mechanism for carrying it out.

Senator DECONCINI. So as the Ambassador said, this is to earn that right. That is the philosophy here?

Ms. MEISSNER. That is correct. And I believe we will be able to present to you shortly a system which does a reasonable job in giving the document and the legal protections required to confer this benefit and still does so in a way that lends itself to processing large numbers of people mostly by non-Government personnel.

Mr. ASENCIO. Senator, if I may supplement that for a moment.

Senator DECONCINI. Please.

Mr. ASENCIO. If there is an immediate entitlement to permanent resident status, there would be a significant workload impact on our consular posts, because then you would have the follow-on entitlements of relatives. So in effect, you would be——

Senator DECONCINI. This stages it in?

Mr. ASENCIO. Yes. You would be affected either way, so I am not sure that would be a salient point.

The other thing is, then the issue would arise which the chairman mentioned--questions of equity not only with regard to the illegal aliens, but also with regard to those who have been patiently waiting their turn.

Senator DECONCINI. Mr. Chairman, one more question. How did the date January 1, 1980, come about?

Ms. MEISSNER. The attempt was to get a fairly recent date.

Senator DECONCINI. Was it under consideration to make it effective as of the date of the passage of the legislation?

Ms. MEISSNER. Never. The effective date of the passage of the legislation would give you all of that period during which the debate is occurring for a strong magnet effect to take place. And I think——

Senator DECONCINI. Do you think the magnet could possible be stronger than it is today?

Ms. MEISSNER. It probably could be stronger given those factors, yes.

Senator DECONCINI. I would hate to think it would be.

What troubles me was an arbitrary date, whatever it is, not to leave any criticism of January 1, 1980. But what about the person who came in January 3, 1980, or January 1, 1981? How would that person be handled?

I think the Ambassador made some reference to some special category, or the chairman asked that question, too, and I did not quite understand the answer.

Mr. ASENCIO. I think we were talking about the temporary worker program, also a part of the administration's package.

Senator DECONCINI. They would go back and apply for this 50,000 per year temporary worker program?

Mr. ASENCIO. There is not necessarily direct relationship, but the temporary workers program was designed as a means of having a legal channel to sop up the remaining demand. In other words, all of the aspects of the administration's program are designed to try to eliminate different parts of the illegal alien question, and the temporary workers program was designed specifically to provide an additional channel, on the assumption there would still be considerable demand for people coming to the United States.

Senator DECONCINI. In that case, when the temporary workers are established at 50,000 per year and you were talking about commencing this legalization January 1, 1980, are we not apt to be excluding immediately any temporary workers who are in Mexico from being able to come in because of this backlog from January 1?

Mr. ASENCIO. We still have, of course, the H-2 program.

Senator DECONCINI. How many H-2's were permitted in in 1979 from Mexico? I think it was less than 800. So we are not talking about much in the way of an H-2 program.

Mr. ASENCIO. That is true. There is no question. I see what you are saying.

Senator DECONCINI. What I would like to know, Mr. Ambassador, is would the administration consider moving that date up, maybe not to the date of enactment because of the obvious reasons you point out, Ms. Meissner, but making it as near to that as possible, so you do not have this large number of people who fall into that category, who then would be absorbed perhaps by the temporary worker, negating what I think is the idea of a trial situation to see, with Mexico particularly, whether or not this temporary worker program would be a good idea for both countries.

Are you married to the date, I guess, is the question.

Mr. ASENCIO. Certainly at this point that is the administration's position, but let me add that designating that date was an attempt to make it as inclusive as possible of the numbers already here. As

I say, I see what you are saying. Between that date and the future, there could be a substantial body of people who would not be eligible for these entitlements. I understand.

I might say that one could argue that they have not built up the equities that the group who came in prior to January 1980 have.

Senator DECONCINI. As a legislator, I find it difficult setting these arbitrary dates. Maybe as an administrator you do, too. It just seems like you are playing God with who happens to be there on a certain date, and I don't like that position. If I am going to play it, I would like to play it as close to the date of enactment as possible. That would avoid it being a direct magnet, saying come on in, because that will happen.

Mr. ASENCIO. I think an operative factor will be when the legislation is actually enacted. That may force reconsideration of the date.

Senator DECONCINI. One last question. Just a clarification. Mr. Forbush mentioned it and I think Ms. Meissner mentioned it, that is about services not being available, Federal programs such as food stamps, medical care and what have you. Do we have any idea how many undocumented aliens in the country now participate in those programs?

Mr. FORBUSH. I am sorry, sir, we do not. We know that they do. I think the question of public welfare programs like ADC and SSI is very small. We have a number of public health programs which do not require any documentation of residency to participate in, and we think there are some who participate in that, particularly migrant health and the community health standards.

Senator DECONCINI. What about the food stamp program?

Mr. FORBUSH. I don't know. That is in the Agriculture Department.

Senator DECONCINI. Does that require residency?

Mr. IGLESIAS. I am not really sure.

Ms. MEISSNER. I don't believe food stamp regulations prohibit legal aliens from participating. How that is administered and what the incidence is, I am not prepared to answer.

Mr. ASENCIO. Senator, I might also add what we are indicating, I think, is there are no real numbers in this particular area, but I have talked to a number of Hispanic leaders and I have an impressionistic concept, and I have talked to those who are in touch with the type of person we are talking about.

Their feeling is that since these people basically have come up to work and feel very strongly about that, in many ways as far as the overwhelming majority of them are concerned the idea of going on welfare is anathema. It is not something they would consider the basic reason and purpose of their coming here, and would actually not understand this debate we have going as to whether these entitlements should be conceded to the illegal alien or to the legalized alien.

In a sense they would even find it perhaps condescending for us to think that the reason they were coming up here was to go on welfare.

Senator DECONCINI. Let me carry it a little bit further. What about the employment benefits, the disability benefits? Would they

be allowed to collect unemployment compensation if they were unemployed?

Mr. FORBUSH. I don't know. [Pause.]

The bill we have proposed has not put a prohibition in on it.

Senator DECONCINI. Has not?

[Mr. Forbush nods affirmatively.]

Mr. IGLESIAS. I would like to come back to the food stamp program for a second. My understanding of the way it works right now is that if an individual has a legal status in the United States, either citizenship or permanent resident status, he would be eligible for food stamps.

Senator DECONCINI. How do you prove that?

Mr. IGLESIAS. When an individual is given the food stamps, the food stamp office then tries to verify his status with the INS. We have had some administrative problems trying to verify the status of some people. In effect in certain States anyone who doesn't say he is not an alien gets the food stamps.

Senator DECONCINI. So how would you make this any different than what we have today?

Mr. IGLESIAS. I will refer that question to Ms. Meissner.

Mr. MEISSNER. We are on food stamps now?

Senator DECONCINI. If you went back to a legalization of January 1, 1980, how would you satisfy those people who were under this temporary residence status and couldn't get food stamps? If you cannot do it today, what indication would we have that you can do it if this law were enacted? Really, none.

Ms. MEISSNER. One of the advantages of having a legalization is to give the people who register and are eligible a document showing that they now are in legal status.

Senator DECONCINI. But if you had the document and went in to get food stamps and you know if you show the document you are not going to get them, you are not going to show the document, right? If you come in and they say "Are you a resident" and you say yes and they get your food stamps and then it is then up to the food stamp people to verify with INS, which they cannot do now, then there is really no indication——

Ms. MCMAHON. If I might step in, I handle the aid to families with dependent children program. Since the State agencies do that as well as food stamps, there has been a problem, admittedly, in dealing with INS, but we are beginning to set up, because of other new requirements in our own law, better working relationships with INS.

For instance, in California, because that is where one of the major impacts has been, we have had something ongoing, I think in Los Angeles County, to get documentation from the INS to the welfare office on a regular basis. There was a slight cutdown on that recently because of cutbacks in staffing, but now we are looking at getting the State welfare office, because there is an obvious impact there, to maybe give a couple of clerks to go pick up information from INS and have a better checking procedure, and I think that would slop over into food stamp because it is the same organization.

Senator DECONCINI. My problem is, whether it is food stamp or some other program, if you cannot enforce it today, it seems that

we are kidding ourselves and kidding the public that we will prohibit these temporary residents from using those programs. They will go ahead and use them. We might as well not have a bar against them if we cannot enforce the bar we do have. I think that should be considered by the administration and certainly by this committee.

If there is a way to enforce it, I would certainly think it would be worthwhile, but it seems to me to be a little inconsistent—that we cannot enforce it now as to food stamps, and I probably would be correct in saying we cannot enforce it in many other areas—to think we are going to enforce it by passing this law.

Ms. McMAHON. I do not have any figures on food stamps, but we have found through whatever data we have on our quality control system in AFDC that it is less than one-half of 1 percent of the population eligible that turn out to be illegal aliens. So it is a fairly small problem.

The point I am making is you are right, we probably have not done as good a job as we should, but we are, because it is a problem whether you go this status or illegal aliens or whatever, we are beginning to improve our working relationship with INS and the state agencies that handle these programs.

Senator DECONCINI. Thank you.

Thank you, Mr. Chairman.

Senator SIMPSON. Thank you very much. I appreciate your continued attention to this issue. That is very helpful to the subcommittee. That date is a tough one, and you remember as we sat together on the Select Commission, we discussed setting that date of January 1, 1980, simply because it was 3 months prior to the date we first began to talk about legalization, and that was very clever of us, I thought. [Laughter.]

Senator DECONCINI. It really worked.

Senator SIMPSON. It surely did, and that was part of it.

Let me ask a few questions of Mr. Forbush. What is the administration's rationale for providing cash and medical assistance for participants in the Cuban-Haitian legalization program and not to those of other nationalities who will be participating in the general legalization process?

Mr. FORBUSH. That program preceded this consideration and it was, I think, viewed as an emergency measure, a sudden influx of people who would have some problems adjusting to American society and getting work. In contrast, this group is already at work. They came here to work and they very likely if they are staying here are staying here because they are working.

The Cuban-Haitian group is much more like a refugee than an illegal alien in its characteristics and how they have been fitting into society.

Senator SIMPSON. These participants, as I understand it, in the legalization program will be required to pay social security taxes, and I assume, then, that their employers will also be required to make social security contributions.

Will the participants be able to receive these benefits under social security after they have contributed to the fund or after they have worked a minimum number of quarters?

Mr. FORBUSH. Yes, sir.

Ms. MCMAHON. Not only that, illegal aliens are not barred from receiving social security benefits now if they have the required number of quarters under covered work. That situation will not change with the new status.

Senator SIMPSON. Illegal aliens are not prohibited from what, again?

Ms. MCMAHON. No, sir. Entitlement to social security comes on the basis of having participated for the required number of quarters in covered work, so if the person is legal or illegal and has participated in covered work for the required number of quarters, they are eligible for benefits and receive them.

Senator SIMPSON. That, of course, is at the time of application when they come before the local office and apply and show their work documents. There are no questions asked about their citizenship or legal status as long as they are that person in front of the official providing those records.

Ms. MCMAHON. That is right.

Mr. FORBUSH. Social security maintains an earnings record for each person with a social security number.

Senator SIMPSON. Now, we also are advised that those legalized will not be eligible for medicaid. If their employers do not provide health insurance plans, who will be required to pay for the medical costs which these people cannot meet?

Mr. FORBUSH. They would become public charges in that case. I will just say about that that the change to temporary status does not change what the situation is now. I mean that is the condition they are in now. I think the switch to legal status would make it more likely they would participate in the regular health insurance program, whereas now they might feel compelled not to come forward because of their illegal status.

Senator SIMPSON. So let's say they would become a public charge and then that would fall——

Mr. FORBUSH. They are public charges now or public problems. They are problems now.

Senator SIMPSON. Well, when they become a "public charge," that will fall on the local community rather than the Federal community as we think of it.

Mr. FORBUSH. Yes, sir. It is there now.

Senator SIMPSON. I am aware of that.

Mr. FORBUSH. And the bill doesn't change that or offer a new benefit.

Senator SIMPSON. Except the bill does in this situation limit certain advantages and financial benefits that these people can receive.

Mr. FORBUSH. Yes, I think the basic thing to weigh is what is the, as Ms. Meissner characterized it, the reward for past illegal activity and the potential magnet effect that additional benefits might have on other people coming in. It is a very hard balance to weigh.

Senator SIMPSON. I have a couple of concerns. I think we have got to look at the impact of what this will be on local governments who do not perhaps even realize what that might be in terms of providing general assistance and medical benefits when those have been cut away by the Federal Government under this proposal, and then I have to worry whether the switch to legal status will indeed

produce more persons surfacing to seek health care who are now fearful of doing so because of their illegal status.

Mr. FORBUSH. Yes, there is a potential problem there, yes.

Senator SIMPSON. I think there is indeed. Will the Public Health Service have any role in assisting with the medical examination required of legalization participants?

Mr. FORBUSH. No, I don't think so.

Senator SIMPSON. Mr. Iglesias, some agricultural employers have expressed their concern that once the illegal immigrants and their employment are legalized, they will leave agriculture and go into more lucrative occupations or more remunerative pursuits. In your opinion is that likely to occur, and if so, how then should we be aware of dealing with the resulting impact on agricultural production?

Mr. IGLESIAS. I guess my answer would be no, I don't think that is likely to occur, especially in the short run. We see the migration from South America to the United States based upon occupation. For example, people who were small farmers in Mexico come and work in farms in the United States. People who were urban dwellers in Mexico come and work in our urban centers, primarily in the light industry or the services.

So in the short run, and I am talking about a 10- to 15-year time period, people who are presently employed in agriculture would not leave the agricultural labor pool the day after they obtained a legal status and go into the urban areas for year-round employment. Again, we are talking about guesstimates, a lot of guesstimates, but we see the H-2 program as a safety valve we could use to mitigate any sharp decreases in agricultural labor in the short run if in fact those decreases occur. We don't foresee a real shortfall initially.

Senator SIMPSON. The H-2 program, in testimony before this subcommittee, is, I think, best described as being a bit ponderous, especially when we have 42,000 now processed under H-2. I think there is a general consensus on the subcommittee, as there was with the Select Commission, that we streamline the H-2 program, and I think we will be about that.

And of course then that raises questions with regard to the temporary worker program if we decide to go to that as we play with the numbers between H-2, temporary worker, legalization, after legalization, those who then seek family reunification, and again, we are looking at numbers, numbers and on up with numbers, which, as I have said before, is unfortunate but that is where we have come.

And you believe, then, that they will not make a jump from agriculture into something else.

Mr. IGLESIAS. No. I think you see it now with the illegals who were agricultural employees, who have legalized their status. They have stayed primarily in agriculture. Their children, the second generation, moved to other, better paying, more stable, year-round employment. Again, I don't see that shift initially.

Senator SIMPSON. If a legalization program were structured to include persons who have taken seasonal employment for only, say, 6 to 9 months, and we know there are many who do, during the course of several years would there still be a need, in your mind, for the 50,000 temporary worker program?

Mr. IGLESIAS. Yes. Not only for the 50,000 temporary worker program but also for the H-2 program. We are not sure how many people who would qualify for a legalization would in fact apply for legalization. Legalization programs have been enacted in other countries, and in each case the percent of the people who applied for the program was a lot lower than the total eligible. Only between 30 and 50 percent of the people eligible applied for a legal status.

We are not at all sure what percent of those eligible for legalization in this country, will in fact apply.

Senator SIMPSON. That was the experience, was it not, with countries of——

Mr. ASENCIO. Canada and Australia.

Senator SIMPSON. Canada, Australia, and Venezuela?

Mr. IGLESIAS. Venezuela had it 2 years ago and they had a very low response.

Mr. ASENCIO. I must say, though, I think our approach is better in the sense that you have an extended period of time during which it is possible to come forward. For instance, the registration period in both Canada and Australia were extremely short, as I recall, and also again reiterating that this is part of a comprehensive package and the other elements of the package should also have an effect in this area.

So that if it is possible to have a successful legalization program, we believe this is the way to go about it, and the failure of legalization programs elsewhere which were done without reference to other elements of the problem are not necessarily a good example as to what one could anticipate under our program And I guess there is just one footnote: I hope.

Senator SIMPSON. Yes, you hope that is the case. I knew you were going to make that differentiation, pushing your own program.

Mr. ASENCIO. Yes.

Senator SIMPSON. One more question, Mr. Forbush, and I will come back to you, Diego, and to Doris also and to Mr. Iglesias. If single, temporary residents have children born in the United States, and that is, I think, something that happens during their 10-year residency period, would they then become eligible for the full range of benefits that are excluded and prohibited to the others?

Mr. FORBUSH. Yes, they would, as citizens.

Ms. MCMAHON. But may I just add that the children of illegal aliens born in this country are citizens and eligible as well.

Senator SIMPSON. We find that is true, yes. Thank you. I appreciate that.

Ms. Meissner, will there be any kind of a moratorium on interior enforcement during this period of legalization? If not, what will happen to those whose applications reached the INS and they are determined to be ineligible?

Ms. MEISSNER. We don't envision a moratorium at all. In fact, we believe the most important incentive to bring about a successful legalization program will be employer penalties and successful enforcement of employer sanctions.

In implementing an employer penalty program in parallel fashion to the administration of a legalization program, if we come

across people who are eligible for the temporary resident program, we will allow them to avail themselves of that eligibility rather than be deported.

Those people who are ineligible for the temporary resident program and who we come across in the normal course of operations, we would most certainly proceed against.

Senator SIMPSON. Here is one and you can each respond to this because I think it is going to be very controversial, like everything in this. What is the rationale, I would ask you, Ambassador, the rationale for requiring proficiency in the English language of this group when that is not required for other persons seeking permanent residence status? And if after the 10-year residency period, if that is what we determine to be the time, if a person is found ineligible for permanent residence on the basis of lack of English proficiency, would they then be required to leave?

Mr. ASENCIO. The rationale, of course, was that this was part of the element of earning their way back to a legal status and was a measure of their possible integration into the community at large. That would be an indication that in effect someone who would be here for this length of time had the intention of being here permanently, and this would be somewhat of an indicator of their possibility to eventually become an American citizen and an upstanding member of the community. It was part of their earning this way back to respectability.

Now, what would happen if they flunked the test, I defer to Ms. Meissner.

Ms. MEISSNER. That requirement would be administered in the same fashion as we administer the English language requirement for citizenship. It is clearly understood to be a minimal English-speaking capability. It is almost impossible to envision that people would not be sufficiently able to speak the language after having fulfilled the 10-year residency requirement.

Nevertheless, the principle in establishing that requirement with relationship to these people was felt to be an important policy matter, as the Ambassador has indicated.

Senator SIMPSON. Well, we will have some separate portions of hearings about that point.

Coming back to a question I asked you earlier about the 3-year renewal or 3-year reporting requirement, you stated it would serve, among other things, to determine whether that person was a public charge, and yet under the excludability provisions we have that phrase, "public charge." What if one had become a public charge? Will that person then be deportable?

Ms. MEISSNER. Yes.

Senator SIMPSON. Do not go any further. I have never heard an answer like that. [Laughter.]

I couldn't stand anymore of those one after another like that. We would be out of business here. [Laughter.]

Let me ask you: How would the provision for regular visits to the homeland by legalized aliens, be interpreted?

Ms. MEISSNER. Do you mean, now, the allowance that people can return?

Senator SIMPSON. Yes; "regular visits" is the phrase.

Ms. MEISSNER. Or are you talking about people coming to the United States to visit residents here?

Senator SIMPSON. No; I'm referring to the legalized aliens going back home on regular visits.

Ms. MEISSNER. It would be simply presenting whatever the temporary resident document is at the time of re-entering the country. We would exercise no control or monitoring on departure.

Senator SIMPSON. I think this 10-year residency requirement will come up for a lot of review. Under current law we have a 7-year residency for suspension of deportation. Would you have any objection to a requirement that this figure drop back to 7 years from 10, or are you hung with 10?

Ms. MEISSNER. Any particular year requirement will be somewhat arbitrary. Ten years was arrived at as an attempt to bring about equities between this group and those who have been waiting overseas, but we are certainly open to your ideas on it.

Mr. ASENCIO. And it is already going to be 8 eight years even if in the best of all possible worlds we have legislation in the near future.

Senator SIMPSON. We even have the presumption of death after 7 years in the law. [Laughter.]

Why are the Cuban-Haitian entrants being allowed to adjust their status within 5 years, and then under this proposal we have the other nationalities waiting 10 years and both have been determined to have entered the United States illegally? Is the answer that Mr. Forbush gave similar to what you would respond?

Ms. MEISSNER. The 5- and 10-year difference is based upon both a practical and a philosophical consideration. The practical consideration is we simply know the number of people who are involved in that group. That is a finite number. It is approximately 160,000.

We know who they are, where they are, and what the effects of their legalization would be, and its derivative effects on the immigration law. So it didn't seem necessary to stretch out a period of temporariness for those folks as a legal matter.

The philosophical point is that there is definitely some proportion, maybe a fairly large proportion, who by most anybody's standard could qualify as refugees were their asylum claims actually adjudicated. Because it is a very large group and it has become administratively unmanageable to adjudicate them as asylum claimants, we are cutting off their right to have their claims adjudicated.

That, of course, takes away some important benefits, from those who might be eligible and so as a general overall matter of equity, the balancing of that with a lesser period of time seemed a reasonable approach.

Senator SIMPSON. I might ask you, Diego. Some opponents to the legalization program confront us with the point that this would not be in the best interests of Mexico since that country would permanently lose workers who have gained valuable skills in the United States and persons who have been characterized by some as the brightest and the best of the rural population.

What is your comment on that, and what is the attitude as you perceive it of the Mexican Government on that toward this proposal?

Mr. ASENCIO. Certainly, Mr. Chairman, there is a feeling among many Mexican leaders. I have developed this in conversation with them, that we have not exactly taken their downtrodden peasant masses but we are taking young, healthy, aggressive, entrepreneurial, fairly well educated people, and these would be people that any country, any economy would like to see within the context of their own national borders.

The demographers, however, tell me that this is a standard feeling among most nations providing immigrants to world population flows in the sense that they always have the feeling that those who depart tend to be more aggressive, healthier, stronger, tougher than those who stay.

There have been studies along these lines. For instance, a comparison of immigrant stock with the native stock shows some selection is at work. So there is a selection process.

Having said all of this, I think that the feeling I have described on the part of Mexican spokesmen and political leaders is there, but it would not be fair to characterize it as opposition to the development of this program. It is just a concern.

Senator SIMPSON. We have also come across a figure, I think, that some are saying that about 30 or 40 percent have come from cities of 20,000 or larger, too, and that they are not just the rural populace.

Mr. ASENCIO. That is correct.

Senator SIMPSON. Does that correspond with your figures?

Mr. ASENCIO. Yes. Well again, a lot of these figures are impressionistic, and you know how I feel about statistics. But that is a good impressionistic statement.

Senator SIMPSON. How do you feel about statistics? [Laughter.]

Mr. ASENCIO. One of the virtues of dealing in this field is you can make up your own numbers as you go along, and you can tailor them depending on the argument you want to make, and your figures are as good as anyone else's

Senator SIMPSON. I will certainly say I have found that to be true.

One other question which is based upon past family reunification statistics. Again, I hate to use statistics now, but statistics from Mexicans seeking immigrant visas. How many relatives can we expect, from your past review and your excellent background in consular immigration and visa issues? How many relatives can we expect each participant in the legalization program to bring in or attempt to bring in?

Mr. ASENCIO. Again, this figure is without documentation or proof. I guess the best way to describe it would be as an example of operational experience, rule of thumb, a feeling that guys get on the line dealing with these cases. We figure perhaps four for every principal alien.

Senator SIMPSON. Four.

[Mr. Asencio nods affirmatively.]

Senator SIMPSON. Mexican?

Mr. ASENCIO. Yes. It varies from country to country.

Senator SIMPSON. So if we were to have a legalization process of 3.6 million on the low side, we should multiply that with these

hazy figures by 4, perhaps eventually once legalization is completed.

Mr. ASENCIO. Yes. And I should point out that the extended period of time, the 10-year period would nevertheless enable us to handle even those numbers in not exactly the best possible way but it is a manageable figure in terms of our consular workloads.

Senator SIMPSON. And yet we may also well believe that many of these have already gone through a family reunification and completed that.

Mr. ASENCIO. That is true. That is true.

Senator SIMPSON. And they are here. Then we have to deal with the fact if they are not, that family reunification is outside of any ceilings on numbers or preferences.

Mr. ASENCIO. Once they achieve citizenship.

Senator SIMPSON. Yes, right.

I think I have just a couple of more questions, and then we will conclude.

The legalization program has been mentioned as a means for obtaining for the very first time information, data about the undocumented population, their age, their migratory flows, where they came from, where they went to first, secondary migration, you know, the lure, the push, the pull, employment patterns through the random sampling of these applicants. Does the administration have any intention of trying to obtain that data when they would go through the legalization process?

Ms. MEISSNER. In administering the program we have very definite data dimensions to our plan, yes.

Senator SIMPSON. And the Mexican Government, of course, too, is working on compiling such a data base. I think that it would be very helpful if the administration were involved in a similar effort.

Does the Justice Department concur in the view that each undocumented immigrant from Mexico would be likely to have four family members who could qualify for family reunification, based on past family reunification petitions from Mexico?

Ms. MEISSNER. That is correct; three to four has been our operating assumption, with the very important modification that is very unclear what proportion of that three to four are already in the United States.

Senator SIMPSON. Yes; I understand that.

One question. Again, community organizations and voluntary agencies will again be involved, I assume, in legalization. Do you envision they would receive Federal assistance for their services in any legalization program? Do you envision how much might be expended for each applicant, what the total Federal tab might be there?

Ms. MEISSNER. We are working up figures on that at the present time, and most certainly there will have to be some funding plans made in order to obtain that service.

Senator SIMPSON. How would the efforts of those agencies be monitored and evaluated? The current INS outreach program I think is obviously suffering from money and personnel and efficiency problems. Does that current program have sufficient personnel and funding to do that job?

Ms. MEISSNER. Not at the present time. We would have to augment that mechanism very, very considerably. But our administrative problem in doing so, of course, is that this is a one-time effort which would take at most 2 years—6 months' preparation, a year's registration, and 6-months' followup—so that our augmentation would be for the purposes of this program, not a permanent addition.

Senator SIMPSON. Thank you very much. I very much appreciate your testimony. It is very helpful as we proceed with this issue. Thank you so much.

We will take about a 3-minute break.

[Recess.]

Senator SIMPSON. The hearing will come to order.

The next witness is Barbara Sheen Todd, the commissioner of Pinellas County, Fla., representing the National Association of Counties. And she is accompanied by Mr. Ron Gibbs.

How do you do.

Ms. TODD. Fine.

Senator SIMPSON. Please proceed.

STATEMENT OF BARBARA SHEEN TODD, COMMISSIONER, PINELLAS COUNTY, FLA., ON BEHALF OF NATIONAL ASSOCIATION OF COUNTIES, ACCOMPANIED BY RONALD GIBBS

Ms. TODD. I am pleased to be here, Mr. Chairman and honored members of the subcommittee. NACo appreciates the opportunity to testify before you on the issue of legalization of the status of undocumented illegal aliens currently residing in the United States. Before I read my statement, Senator, I wanted to tell you I am particularly encouraged to see from your questions your sensitivity and awareness of the problems we at the local level have to face in handling this situation.

The position of the National Association of Counties is essentially that it is in agreement with President Reagan that the mass deportation of 3 to 7 million illegal aliens is neither feasible nor in the national interest. It would be inhumane to uproot and deport millions of illegal aliens, many of whom have resided in this country for years and have become productive members of society.

Furthermore, mass deportation would be extremely costly to implement. NACo supports the establishment of a national program to legalize the status of illegal aliens who can demonstrate continuous residence in the United States for 3 years or more and who are otherwise not excludable.

However, our support for a legalization program is contingent, first, upon the implementation of strong enforcement measures to curb future illegal immigration. Without measures such as employer sanctions with which to control illegal immigration, legalizing the status of illegal aliens currently in the United States would merely serve as an open invitation for additional persons to enter the United States illegally in hopes of qualifying under some future legalization program.

In short, we believe that a legalization program only makes sense if future influxes of illegal aliens can be prevented.

Our support for a legalization program also is dependent upon the Federal Government bearing financial responsibility for the costs of implementing such a program. Three to seven million illegal aliens are in this country today because of the Federal Government's failure in carrying out its responsibility to control our Nation's borders. State and local governments should not have to bear the costs of a federally created problem.

NACo has one strong objection to the administration's proposal to legalize the status of illegal aliens. It protects the Federal Government from fiscal impacts resulting from such a program while including no similar protections for States and localities.

Under the administration's proposal, illegal aliens who were present in the United States prior to January 1, 1980, and who are not otherwise excludable would be eligible to apply for the status of renewable term temporary resident. As temporary residents, they would be ineligible for Aid to Families for Dependent Children, supplemental security income, food stamps, medicaid, and federally subsidized housing.

In effect making temporary residents—that is, former illegal aliens—ineligible for these programs which serve the indigent shifts responsibility for assisting indigent temporary residents to State and local governments.

We point out that county governments are mandated to serve all county residents regardless of their legal status. Therefore, the administration's proposed legalization program is likely to have substantial fiscal impacts on counties such as Dade County, Fla., and, I would add, Hillsborough and many others which have high concentrations of illegal aliens.

While the temporary residents would be ineligible for medicaid, county hospitals are mandated to care for all persons requiring medical care regardless of either their ability to pay or their legal status.

Through the years, the biggest impact of illegal aliens on county services has been in the area of health care. Los Angeles County, Calif., estimates that unreimbursed costs of providing health care to illegal aliens totaled $121 million during the past fiscal year. Bexar County, Tex., estimates that over half of its unpaid medical debts, or over $3 million, can be attributed to illegal aliens.

To the extent that some illegal aliens underutilize health care services, except for emergency treatment, because they are afraid of being detected or apprehension by the U.S. Immigration and Naturalization Service, we would expect that once their status is legalized, their use of county health services would increase, resulting in even greater fiscal impacts on counties.

Nationally, county governments spend more on public assistance than any other single program area. Counties generally provide general assistance, emergency assistance, or in-kind assistance to indigent persons who are categorically ineligible for Federal welfare programs such as AFDC or SSI. Again making temporary residents ineligible for AFDC and SSI will not make the problem of assisting needy temporary residents disappear. Instead, the burden will simply fall on the counties.

In sum, NACo is seriously concerned that the administration's proposed legalization program would shift costs onto States and

counties. As stated earlier, we object to the fact that this proposed legislation includes provisions to minimize the fiscal impact of legalization on the Federal Government without affording similar protection to State and local governments.

We believe this is indicative of a fundamental problem with national immigration policies throughout the years. The problem is that while it is the Federal Government which is responsible for determining these policies, the domestic impacts of immigration and refugee resettlement fall on States and localities. And it is all too easy for the Federal Government to be insensitive to the cost and impact when it does not bear financial responsibility.

In closing, NACo is supportive of a program to legalize the status of illegal aliens currently residing in the United States, provided two conditions are met: one, that safeguards are taken to prevent the entry of additional illegal aliens; and, two, the Federal Government will reimburse State and local governments for any additional costs resulting from such a program.

I again thank you for the opportunity to speak with you. I am prepared to answer any questions you might have.

Senator SIMPSON. Thank you very much.

I would hope I had a sensitivity to the local governments. I think just having lived, worked, and practiced law in a small county, a county seat, and seeing that and doing things as grubby as serving on the county land use, planning, and zoning commission and things like that, and city attorney, that that is a perspective that is not observed in Washington, D.C., especially by staff members who often have never worked in a municipality or for one or a county or lived in one, or a legislature, and perceived it in operation.

That is a problem, because it is then perceived when they come to this place that you solve it from here or you start it here and then let them solve it down the road. And I am not saying that in a nasty way; I am saying it in a realistic way.

To go out into the world before we come here to weave our web would make this a better place. So I do understand, and I am very concerned that there will be a tremendous burden falling upon counties, particularly for support of those who will become legalized and then become public charges. And then we can get in some definitions there, but we can develop that a bit in a few questions here.

You do state that the counties support a legalization program if the participants are not otherwise excludable under the immigration laws. Among the exclusions, however, that are in the present law, at least, which must be met, is that of demonstrating that the participant would not become a public charge. And that exclusion must be met by participants in the Reagan program as well.

Therefore, if participants must meet this exclusion in order to remain eligible for legal status, it would be interesting to see how they qualify for benefits made available to indigents at the local level.

Could you give me your thoughts on that?

Ms. TODD. Well, the fact is that no matter what their financial status is at time of application for the legalization program there will be a definite impact on local government in the area of health. I guess you have heard a lot of the horror stories, Senator, from

Florida. Your aide indicated she had heard of some of the health problems.

There will also be an impact on education with all of the legalized aliens many of those who come in are not literate, even in their own language, far less the English language. There also will be an impact on public assistance.

We just feel that a federally created problem should be assisted with Federal dollars. Obviously, the administration has recognized that there is some cost, by the language excluding certain Federal benefits. And I would infer from that they believe there are impacts and they are being passed on to us. And we feel that once these people are not afraid of being detected and they seek assistance then we are going to have to find some way to cope with the additional services they will demand, not only the ones I mentioned, but things like law enforcement, fire protection, and many others.

Senator SIMPSON. You do state that the position of your organization is basically one favoring legalization because—and I think you state that many have resided in this country for many years and they have become productive members of society. Now, some authorities give us information and state that no special financial assistance is needed at the local level, since, as you too indicate, many illegal residents of counties and States are residents nonetheless and, therefore, subject to property taxes indirectly through their rental payments as well as sales taxes supporting local government.

Furthermore, most of them are considered to be working and they are contributing then directly in the economic growth of the area in which they are located. In other words, these people are paying their own way.

How do you respond to that assertion?

Ms. TODD. I do not believe that is true, sir. The information we have indicates a large percentage are not paying their own way. We are not talking about a mass influx into our area of professionals or highly trained people. Certainly, there are those who would fit into that category, but there are many others who also would be eligible for consideration in this program who do not have that type of background and, in fact, will and already are making a serious impact on local governments.

Mr. GIBBS. If I could add, Senator, to that point, I think most of the studies have indicated that illegal aliens pay more into Federal tax, into income and social security taxes, and very little into local taxes. Few own property or pay into the property tax. So the money really comes to the Federal Government. When the services are impacted at the local levels, we are talking about the area of health, education, and general assistance programs. So the revenues do not stay there.

Senator SIMPSON. Do you have any figures on potential sales tax impact at all?

Mr. GIBBS. No, we do not.

Senator SIMPSON. That would be difficult, I am sure, to obtain.

Ms. TODD. And, again, the revenue from the sales tax does not necessarily go into the local counties.

Senator SIMPSON. Would your organization favor the administration's approach to legalization and granting the status called renewable term temporary resident, or would it be more appropriate, in your organization's thought, that we have a one-time granting of permanent resident status to those eligible for legalization?

Mr. GIBBS. I think we have not examined closely the latest proposal from the administration. But I think the 10-year time period, we feel, seems to be too long. But we have not come up with a position yet supporting the 3-year term.

Senator SIMPSON. You have not taken a position?

Mr. GIBBS. We have not.

Senator SIMPSON. It would be helpful, if you form that, to get the information to us whether you favor it as a one-shot deal or as a renewable program.

Ms. TODD. Again, our support of this concept that the administration has proposed is contingent upon some strong law enforcement. Let me give you an example, Senator. I have been in contact with some of our congressmen in the area, your counterparts in the area. And it is my understanding that, for example, in Florida, in the 12-county area, we only have 5 border patrol, and we have an influx, not only of Haitians and Cubans but Colombians and many others who are coming in. And there is not enough manpower.

So we feel that our support of the administration's proposal is contingent upon stronger law enforcement than currently exists, or else we will just perpetuate the problem.

Senator SIMPSON. I concur with that. What is your organization's position on whether participants in any legalization program should be able to bring in family members to the United States?

Mr. GIBBS. Again, on that issue, we do not have a very firm position, Senator. I think there is a serious question on the numbers that were talked about earlier of three or four individuals who would be coming over with any one person being legalized.

I think again we would have reservations about what the impact would be on local governments in the areas of the resources. We have talked about health, welfare, and education programs, and our response to that would be contingent upon an analysis of the impact before we would go with such a program.

Senator SIMPSON. Well, I am sure that your organization would not have the ability to go in depth into all of these various aspects of immigration and refugee policy.

Ms. TODD. Well, it is obvious that if you have one member of a family and they have to stay here 10 years before the rest of their family can come over here or they can be considered a part, it will create a problem for their family. That is the one side. And on the other side, if you assume that everyone can be here, you are bringing more people in.

Senator SIMPSON. Yes. Well, I am sure that it is a frustration for your organization, because of the financial burden which you see coming and which may well come. It is up to us here in Congress to determine whether there should be assistance or how best to craft the law so that that assistance could be limited and these people more easily adjusted into our life here.

I regret that I do not have more than a few minutes, because we have a rollcall vote. I have 5 minutes in which to get there. I have

a few more questions, but I will submit those in writing. And it is at about the appointed hour for concluding the morning session. And rather than having you wait here, I will submit those few questions in writing.

I thank you very much for your testimony. It has been very helpful. Please keep in contact with the subcommittee staff.

That will conclude this portion of the panel. Thank you very much, Mrs. Todd.

[The prepared statement of Ms. Todd follows:]

Prepared Statement of Barbara Sheen Todd

MR. CHAIRMAN, HONORED MEMBERS OF THE SUBCOMMITTEE, I AM BARBARA SHEEN TODD, COMMISSIONER, PINELLAS COUNTY, FLORIDA, A MEMBER OF THE NACo* TASK FORCE ON REFUGEES, ALIENS AND MIGRANTS. NACo APPRECIATES THE OPPORTUNITY TO TESTIFY BEFORE YOU ON THE ISSUE OF THE LEGALIZATION OF THE STATUS OF UNDOCUMENTED/ILLEGAL ALIENS CURRENTLY RESIDING IN THE UNITED STATES.

THE NATIONAL ASSOCIATION OF COUNTIES IS IN AGREEMENT WITH PRESIDENT REAGAN THAT THE MASS DEPORTATION OF 3 TO 7 MILLION ILLEGAL ALIENS IS NEITHER FEASIBLE NOR IN THE NATIONAL INTEREST. IT WOULD BE INHUMANE TO UPROOT AND DEPORT MILLIONS OF ILLEGAL ALIENS, MANY OF WHOM HAVE RESIDED IN THIS COUNTRY FOR YEARS, AND HAVE BECOME PRODUCTIVE MEMBERS OF SOCIETY. FURTHERMORE, MASS DEPORTATION WOULD BE EXTREMELY COSTLY TO IMPLEMENT.

NACo SUPPORTS THE ESTABLISHMENT OF A NATIONAL PROGRAM TO LEGALIZE THE STATUS OF ILLEGAL ALIENS WHO CAN DEMONSTRATE CONTINUOUS RESIDENCE IN THE UNITED STATES FOR THREE YEARS OR MORE, AND WHO ARE NOT OTHERWISE EXCLUDABLE. OUR SUPPORT FOR A LEGALIZATION PROGRAM IS CONTINGENT FIRST UPON THE IMPLEMENTATION OF STRONG ENFORCEMENT MEASURES TO CURB FUTURE ILLEGAL IMMIGRATION. WITHOUT MEASURES, SUCH AS EMPLOYER SANCTIONS, WITH WHICH TO CONTROL ILLEGAL IMMIGRATION, LEGALIZING THE STATUS OF ILLEGAL ALIENS CURRENTLY IN THE U.S. WOULD MERELY SERVE AS AN OPEN INVITATION FOR ADDITIONAL PERSONS TO ENTER THE U.S. ILLEGALLY, IN HOPES OF QUALIFYING UNDER SOME FUTURE LEGALIZATION PROGRAM. IN SHORT, WE BELIEVE THAT A LEGALIZATION PROGRAM ONLY MAKES SENSE IF FUTURE INFLUXES OF ILLEGAL ALIENS CAN BE PREVENTED.

OUR SUPPORT FOR A LEGALIZATION PROGRAM ALSO IS DEPENDENT UPON THE FEDERAL GOVERNMENT BEARING FINANCIAL RESPONSIBILITY FOR THE COSTS OF IMPLEMENTING SUCH A PROGRAM. THREE TO SEVEN MILLION ILLEGAL ALIENS ARE IN THIS COUNTRY TODAY BECAUSE OF THE FEDERAL GOVERNMENT'S FAILURE IN CARRYING OUT ITS RESPONSIBILITY TO CONTROL OUR NATION'S BORDERS. STATE AND LOCAL GOVERNMENTS SHOULD NOT HAVE TO BEAR THE COSTS OF A FEDERALLY CREATED PROBLEM.

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*NACo is the only national organization representing county government in America. Its membership includes urban, suburban and rural counties joined together for the common purpose of strengthening county government to meet the needs of all Americans. By virtue of a county's membership, all its elected and appointed officials become participants in an organization dedicated to the following goals: improving county government, serving as the national spokesman for county government, acting as a liaison between the nation's counties and other levels of government, and achieving public understanding of the role of counties in the federal system.

NACo HAS ONE STRONG OBJECTION TO THE ADMINISTRATION'S LEGISLATIVE PROPOSAL TO LEGALIZE THE STATUS OF ILLEGAL ALIENS: IT PROTECTS THE FEDERAL GOVERNMENT FROM FISCAL IMPACTS RESULTING FROM SUCH A PROGRAM, WHILE INCLUDING NO SIMILAR PROTECTION FOR STATES AND LOCALITIES.

UNDER THE ADMINISTRATION'S PROPOSAL, ILLEGAL ALIENS WHO WERE PRESENT IN THE U.S. PRIOR TO JANUARY 1, 1980, AND WHO ARE NOT OTHERWISE EXCLUDABLE, WOULD BE ELIGIBLE TO APPLY FOR THE STATUS OF "RENEWABLE TERM TEMPORARY RESIDENT." AS TEMPORARY RESIDENTS, THEY WOULD BE INELIGIBLE FOR AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC), SUPPLEMENTAL SECURITY INCOME (SSI), FOOD STAMPS, MEDICAID AND FEDERALLY SUBSIDIZED HOUSING.

IN EFFECT, MAKING TEMPORARY RESIDENTS (THAT IS, FORMER ILLEGAL ALIENS) INELIGIBLE FOR THESE FEDERAL PROGRAMS, WHICH SERVE THE INDIGENT, SHIFTS RESPONSIBILITY FOR ASSISTING INDIGENT TEMPORARY RESIDENTS TO STATE AND LOCAL GOVERNMENTS. WE WOULD POINT OUT THAT COUNTY GOVERNMENTS ARE MANDATED TO SERVE ALL COUNTY RESIDENTS, REGARDLESS OF THEIR LEGAL STATUS. THEREFORE, THE ADMINISTRATION'S PROPOSED LEGALIZATION PROGRAM IS LIKELY TO HAVE SUBSTANTIAL FISCAL IMPACTS ON COUNTIES, SUCH AS DADE COUNTY, FLORIDA, WITH HIGH CONCENTRATIONS OF ILLEGAL ALIENS.

WHILE THE TEMPORARY RESIDENTS WOULD BE INELIGIBLE FOR MEDICAID, COUNTY HOSPITALS ARE MANDATED TO CARE FOR ALL PERSONS REQUIRING MEDICAL CARE, REGARDLESS OF EITHER THEIR ABILITY TO PAY OR THEIR LEGAL STATUS. THROUGH THE YEARS, THE BIGGEST IMPACT OF ILLEGAL ALIENS ON COUNTY SERVICES HAS BEEN IN THE AREA OF HEALTH CARE. LOS ANGELES COUNTY, CALIFORNIA ESTIMATES THAT UNREIMBURSED COSTS OF PROVIDING HEALTH CARE TO ILLEGAL ALIENS TOTALLED $121 MILLION DURING THE PAST FISCAL YEAR. BEXAR COUNTY, TEXAS ESTIMATES THAT OVER HALF OF ITS UNPAID MEDICAL DEBTS--OR OVER $3 MILLION--CAN BE ATTRIBUTED TO ILLEGAL ALIENS.

TO THE EXTENT THAT SOME ILLEGAL ALIENS UNDERUTILIZE HEALTH CARE SERVICES --EXCEPT FOR EMERGENCY TREATMENT--FOR FEAR OF DETECTION AND APPREHENSION BY THE U.S. IMMIGRATION AND NATURALIZATION SERVICE (INS), WE WOULD EXPECT THAT, ONCE THEIR STATUS IS LEGALIZED, THEIR USE OF COUNTY HEALTH SERVICES WOULD INCREASE, RESULTING IN EVEN GREATER FISCAL IMPACTS ON COUNTIES.

NATIONALLY, COUNTY GOVERNMENTS SPEND MORE ON PUBLIC ASSISTANCE THAN ANY OTHER SINGLE PROGRAM AREA. COUNTIES GENERALLY PROVIDE GENERAL ASSISTANCE,

EMERGENCY ASSISTANCE OR IN-KIND ASSISTANCE TO INDIGENT PERSONS WHO ARE CATEGORICALLY INELIGIBLE FOR FEDERAL WELFARE PROGRAMS, SUCH AS AFDC OR SSI. AGAIN, MAKING TEMPORARY RESIDENTS INELIGIBLE FOR AFDC AND SSI WILL NOT MAKE THE PROBLEM OF ASSISTING NEEDY TEMPORARY RESIDENTS DISAPPEAR; INSTEAD, THE BURDEN WILL FALL ON COUNTIES.

IN SUM, NACo IS SERIOUSLY CONCERNED THAT THE ADMINISTRATION'S PROPOSED LEGALIZATION PROGRAM WOULD SHIFT COSTS ONTO STATES AND COUNTIES. AS STATED EARLIER, WE OBJECT TO THE FACT THAT THIS PROPOSED LEGISLATION INCLUDES PROVISIONS TO MINIMIZE THE FISCAL IMPACT OF LEGALIZATION ON THE FEDERAL GOVERNMENT, WITHOUT AFFORDING SIMILAR PROTECTION TO STATE AND LOCAL GOVERNMENTS.

WE BELIEVE THAT THIS IS INDICATIVE OF A FUNDAMENTAL PROBLEM WITH NATIONAL IMMIGRATION POLICIES THROUGH THE YEARS. THE PROBLEM IS THAT, WHILE IT IS THE FEDERAL GOVERNMENT WHICH IS RESPONSIBLE FOR DETERMINING THESE POLICIES, THE DOMESTIC IMPACTS OF IMMIGRATION AND REFUGEE RESETTLEMENT FALL ON STATES AND LOCALITIES. AND IT IS ALL TOO EASY FOR THE FEDERAL GOVERNMENT TO BE INSENSITIVE TO THE COSTS AND IMPACTS, WHEN IT DOES NOT BEAR FINANCIAL RESPONSIBILITY.

IN CLOSING, NACo IS SUPPORTIVE OF A PROGRAM TO LEGALIZE THE STATUS OF ILLEGAL ALIENS CURRENTLY RESIDING IN THE U.S., PROVIDED THAT TWO CONDITIONS ARE MET:

- O SAFEGUARDS ARE TAKEN TO PREVENT THE ENTRY OF ADDITIONAL ILLEGAL ALIENS; AND
- O THE FEDERAL GOVERNMENT WILL REIMBURSE STATE AND LOCAL GOVERNMENTS FOR ANY ADDITIONAL COSTS RESULTING FROM SUCH A PROGRAM.

THANK YOU FOR THE OPPORTUNITY TO SPEAK BEFORE YOU. I AM PREPARED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Senator SIMPSON. We will take up again at 1 o'clock with the first witness, Senator Huddleston of Kentucky.

Thank you again.

[Whereupon, at 12 noon, the subcommittee was recessed, to reconvene at 1 p.m., this same day.]

AFTERNOON SESSION

Senator SIMPSON. The committee will resume its hearing. I wish to apologize for my lateness. It was one of those extraordinary things that only a fellow Senator could understand. It was a mixture of constituents and other things that were unbeknownst only 1 hour ago, and I do apologize profusely.

If you will just proceed, I recognize you as one who has been following this issue probably more closely and more consistently than any other Member of the U.S. Senate.

Senator HUDDLESTON. I thank you very much, Mr. Chairman. And I appreciate the effort you are making in your capacity as subcommittee chairman. I think there is no question that our whole policy relating to immigration and refugee assistance is getting a more thorough consideration now than it has in many years, perhaps ever. And I think that it will lead to positive action on the part of Congress in dealing with some of the problems we are confronted with.

Senator SIMPSON. Senator, may I just interrupt you to introduce the other member of the panel, Dr. Lawrence Fuchs, chairman of the American Studies Department of Brandeis University, who is the former executive director of the Select Commission on Immigration and Refugee Policy.

I know what you have been doing has been characterized by great skill and patience, Larry. Thank you.

Mr. FUCHS. Thank you.

STATEMENT OF HON. WALTER D. HUDDLESTON, A U.S. SENATOR FROM THE STATE OF KENTUCKY

Senator HUDDLESTON. As you indicated, it is my long involvement in the subject of immigration to the United States that is the reason for my concern about calls for mass amnesty for illegal aliens.

While we cannot know the exact numbers of illegal aliens who live here, we do know that their numbers are large, in the millions. We know that their numbers are growing every year that we postpone effective interior enforcement of our immigration laws and effective guarding of our borders.

Two unreasonable visions for the future of these aliens have been used as the rationale for extending an amnesty to nearly all of them. First, it is asserted that mass round-ups and deportations of millions of illegal aliens, which would be unconscionable, are the only alternative to mass amnesty. That enforcement technique has never been seriously considered by Congress or the administration.

Second, it is asserted that the overnight disappearance of illegal immigrants from the industries in which they are concentrated would cripple those industries—as though any enforcement effort

would not necessarily take years to replace illegal aliens with American workers.

But the two extremes of mass amnesty and mass deportations are not our only options. These have not been and should not be the only alternatives which Congress contemplates. We are dealing with the practical possibilities, the methods of amnesty which will work and which will be accepted by the American public. We should explore all of the options.

This matter of acceptance by the American public is a grave one which I believe we should discuss. As I talk with people throughout the United States, I find a great reluctance to extend amnesty to illegal aliens automatically.

Americans understand that illegal aliens committed a crime by coming to the United States. They understand that immigration must be limited, and that those who took it upon themselves to break our laws and migrate here outside our laws should not be lightly rewarded for their crimes.

This strong and vocal opposition to mass amnesty is a reasonable position. We should consider it as we fashion an amnesty program. We should tailor that amnesty program to meet the concern of Americans that illegal aliens not be rewarded for their illegal acts.

I might say here that some of those I have found who are most vociferously opposed to a blanket-type amnesty are those citizens who have been in this country for a relatively short time, having come from another country, but having come here under our laws, those who have gone through the process and have either achieved permanent resident status or indeed full citizenship.

They themselves have a great concern about those who have attempted to come under the correct procedures and those who are still in that process, perhaps waiting or being delayed for a long time, the effect on them of a blanket reward for those who came outside of our laws.

It should be clear to everyone that only illegal immigrants with close ties to the United States, with an attachment to America, are being given amnesty, and that this amnesty is a reward for their contributions to this country and not for the violations of our laws. We should offer amnesty because of our compassionate concern for individuals who have lived for years in the United States, who have contributed to this country, and who have become a part of this country.

However, I do not believe that we should extend amnesty to those who do not have such an attachment to the United States, who have invested neither their earnings nor their future hopes in this country. I do not believe that those who have used the United States simply as a source of income or who intend eventually to return to their home countries should be given amnesty. We give amnesty out of humanitarian concern and understanding, not because we must.

The Immigration and National Security Act of 1981, S. 776, which I introduced jointly with nine other distinguished Senators, provides for just such a targeted amnesty. As I described it in the section-by-section analysis of the bill, section 7 of the INS Act allows that under specified circumstances those illegal aliens who qualify would be permitted to obtain permanent resident status.

This would be accomplished by amending an existing section which grants the same status to illegal aliens who had entered the country prior to June 30, 1948. The requirements would include continuous residence since January 1, 1978, registration within 6 months of the implementation of a more secure social security card system, which is provided for in the act, financial sponsorship similar to that required for applicants for legal immigration, a showing of undue hardship if forced to leave the United States, and admissibility in accordance with section 212(a) of the INA.

I would recommend to this subcommittee, Mr. Chairman, that any proposal for amnesty include these kinds of restrictions in individual determination of eligibility for amnesty. Any system of amnesty which would legalize illegal aliens under lower standards than are required of legal immigrants would be unfair and unjust. Any system of amnesty which would not require individual case-by-case determination of eligibility would be susceptible to great fraud and abuse.

I would now like to respond briefly to the proposals for amnesty which have been made by the administration, and which just last week were forwarded to Congress in legislative form.

The administration recommends that Congress permit all illegal aliens present in the United States prior to January 1, 1980, subject to certain minimal standards for exclusion, to apply for renewable-term temporary resident status which would allow them to remain in the United States until they had completed 10 years of continuous residence here.

At the end of that period they would be eligible to apply for permanent resident alien status. Until the completion of 10 years of continuous residence, the renewable-term temporary resident would pay taxes, but would not have the right to petition for the admission of his family nor the right to receive welfare or many other federally asisted benefits.

My major difficulty with this proposal is that it is being paired with a proposal for an additional temporary worker program. I do not see, if the administration truly believes that its amnesty program would work, what need there is to import even more foreign labor into the United States.

The one good argument for a large-scale temporary worker program is that it could ensure a smooth transitional period between the employment of millions of illegal immigrants and the adaptation of the agricultural, service, and light industry sectors so if they can employ American workers in those jobs.

If the transition is to be made through a renewable-term temporary resident status, then an additional temporary worker program seems to me to become superfluous.

We could use both programs in a coordinated way by having a targeted amnesty, such as that in S. 776, for those with long residence and close ties to the United States and a traditional guestworker program to phase out the illegal work force.

For those illegal residents unqualified for amnesty, a limited time guestworker visa could be made available. At the end of the visa period, the alien should be required to leave the United States. If these illegal workers are truly just temporary migrants, such a program would enable us to give a generous amnesty to those who

are deserving, to prevent the disruption of the work force, and still to remove illegal aliens from the work force without instituting a permanent guestworker program.

There is one additional question about amnesty programs that I do not think has been sufficiently addressed. That is whether the millions of amnestied illegal immigrants who are envisioned in a mass program or in the administration's program are to be simply added to the numbers of legal immigrants who come to the United States, or whether we are going to devise a system through which they will be subtracted from the annual ceilings for legal immigration.

I sincerely believe that we must gain control over the numbers of people we add to the population of the United States. I do not think that an amnesty loophole which could add millions of people at a time should come completely outside of the quota system and immigration law.

This consideration brings me to what I believe is the most vital necessity which we must face to gain control of legal and illegal immigration: the necessity for a comprehensive ceiling on all legal immigration to the United States. S. 776 provides for such a ceiling. It closes the loopholes through which congressional control over legal immigration has been evaded. It includes all classes of legal immigrants within a single cap.

The tendency in the past has been to create classes of immigrants who are exempt from ceilings, who are free to come to the United States without numerical restrictions. Whether through humanitarian concern or through a simple underestimation of the numbers of people who would qualify for these unlimited classes, we have let the uncontrolled classes of migrants significantly outnumber the migrants who are numerically controlled.

If amnestied illegal immigrants are to be yet another uncontrolled class, numerically unrestricted, I believe they should be the last of such a class. I believe that we should close the loopholes after them and bring all legal immigration under a single comprehensive congressionally set ceiling.

And, Mr. Chairman, I appreciate the opportunity to meet with you today, and I look forward to continuing our discussion of this and other immigration issues in the future. Thank you.

Senator SIMPSON. Thank you so very much.

Dr. Fuchs.

STATEMENT OF LAWRENCE H. FUCHS, JAFFE PROFESSOR OF AMERICAN CIVILIZATION AND POLITICS, BRANDEIS UNIVERSITY; FORMERLY EXECUTIVE DIRECTOR OF THE SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Dr. FUCHS. Thank you, Mr. Chairman, for the opportunity to appear.

After 2 years of study, briefing papers, consultations and public hearings, discussions among themselves and voting on straw ballots, the 16 members of the Select Commission on Immigration and Refugee Policy came to a unanimous decision on the question of what to do about most of the illegal aliens who already live and work in this country.

I should add, in commenting on what you said, Senator Huddleston, that I think it was the view of most Commissioners that many efforts should be made to increase enforcement, but they were not sanguine as to the outcome without effective employer sanctions and employee eligibility laws and that legalization, a comprehensive legalization program, was an integral part of that package.

Their recommendations called for the legalization of a substantial number of illegal aliens in the United States as of December 6, 1980, when the Select Commission took its final vote. The exact wording on which the Commission agreed reads as follows:

> The Select Commission favors a legalization program as part of its enforcement package. The Commission recommends that no one be eligible who was not in the United States before January 1, 1980. The Commission expects Congress to establish a minimum period of continuous residency to further establish eligibility. The Commission also recommends that the legalization program not take place until new enforcement measures for curbing illegal migration have been instituted.

To implement its recommendation for a comprehensive legalization program, the Commission also voted unanimously to give voluntary agencies and community agencies, to use the Commission's words, "a significant role in the legalization program."

Although the Commission did not vote officially on the question of the minimum length of residence required to establish eligibility for the program, most Commissioners did indicate on straw ballots taken prior to the final official vote, that the period should be a short one. Of the eight Commissioners who expressed an opinion on the subject in writing, the longest period suggested by any of them was for 3 to 4 years prior to the date of the Commission report, which was March 21, 1981. Six of the eight Commissioners who commented on the issue suggested a period of residence of 2 years or less.

The Commission voted that legalization should not take place until new measures to curtail illegal migration have been instituted. Only a few Commissioners commented as to what the phrase "have been instituted" means. Chairman Theodore Hesburgh and former Atty. Gen. Benjamin Civiletti made clear their view that the legalization program should begin simultaneously with legislation to curtail illegal migration.

Senator Allen Simpson has indicated that new measures to curtail illegal immigration should be in place before the legalization program begins.

Former Secretary of State Edmund S. Muskie has said that he hoped the institution of new enforcement measures "will not so delay the institution of the legalization program as to invalidate its effects."

Former Secretary of Labor F. Ray Marshall commented that the institution of "new enforcement mechanisms before a legalization program takes place must neither vitiate nor appear to vitiate such a program."

How is it possible that such a bipartisan unanimity was achieved among persons of various political and philosophical perspectives on the issue of legalization? The answer to that question is that all 16 Commissioners came to believe that a strong legalization program was a necessary step in curtailing of future flows of illegal aliens and an integral part of a strategy for immigration reform.

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The Commission did not use the word "amnesty". Amnesty implies forgiveness. The Commission did not bog down in a discussion of who should be forgiven for what or whether there was anything to forgive. The Commission was guided not by the principle of forgiveness but by the principle of the rule of law.

Given that principle, the Commission's conclusion was inescapable when it was confronted with the following facts:

First, the continued existence of a large number of illegal aliens is harmful for American society for many reasons: Depression of U.S. labor standards, encouragement of various kinds of illegality, neglect of health and education, the stimulation of interethnic hostilities, the inefficient use of INS resources, and the diversion of those resources from the important task of preventing future illegal immigration flows.

Second, there is no possible way this Government can apprehend and deport even a substantial minority of illegal aliens without seriously violating the civil liberties and/or civil rights of many Americans, without disrupting neighborhoods and places of work, and without incurring unreasonable costs.

And I should add, in commenting on what you said, Senator Huddleston, that many Commissioners agreed with you that efforts should be made to increase enforcement, but they were not sanguine as to the outcome without an effective employer sanctions/employee eligibility law, and that legalization, a comprehensive legalization program, was an integral part of that package.

Third, it is not possible to produce an employer sanctions/employee eligibility law which would be fully operational and substantially effective for 7 years.

Fourth, the other measures will not be adequate in the interim without the legalization program. Other more conventional methods of enforcement must be concentrated, even more than they are now, in the prevention of future flows rather than in costly efforts at interior enforcement which produce few results.

And fifth, the prevention of future flows of illegal aliens from whatever source will be considerably strenghtened by a comprehensive legalization program. Since only through such a program will U.S. enforcement authorities obtain comprehensive and thorough knowledge with respect to the origins and methods of entry, smuggler use patterns, and impacts of illegal aliens.

These are the facts which led to the Select Commission's recommendations taking a form quite different from the programs proposed by the Carter and Reagan administrations. The major distinction in the Commission approach is that it wants to end the underclass status of most illegal aliens for the good of American society and to prevent future flows, not just to confer a benefit to those who have been here a long time or to provide a new category of alien temporary workers who would not be subject to the same obligations and rights of resident aliens.

Mr. Chairman, when dealing with this subject, there is a tremendous temptation to substitute rhetoric for hard thought. That is not true in Senator Huddleston's case. He has given this so much detailed attention. But it is true in a great many other cases. At our hearings we listened to testimony from those who took the so-called "tough" stance, persons who argued with bravura that illegality

must never be rewarded. We also listened to humanists who stressed the indignities suffered by human beings who happen to be illegal aliens wanting nothing more than to make a living for themselves and their families.

I submit that both approaches lead to bad public policy. The so-called tough posture is not tough minded at all, even though it may be tough sounding. It would accomplish no important public purpose. It ignores the harm done to American society by the continuing presence of this underclass.

Its proponents talk about getting illegal immigration under control and yet oppose a comprehensive legalization program, which means they do not yet understand, as all 16 Commissioners came to realize, that legalization is necessary for the effective curtailment of future flows of illegal aliens. I hope the more they study this matter, the less reflexive and more tough minded their position will become.

Similarly, the strictly humanist view is shortsighted, even in terms of its own values. It does not take into account that unless legalization is linked to new measures to curtail future flows, many human beings will suffer abuse and even death. There will be more smuggling, more death in the desert, on boats and ships, more drownings in the Rio Grande and the Atlantic Ocean, more ethnic conflict, and eventually, more calls for draconian measures to deal with illegal immigration.

I urge the committee to follow the recommendations of the Select Commission on Immigration and Refugee Policy in this matter, which would lead to a thoroughgoing comprehensive legalization program. We should not think of the legalization program as a forgiveness program or as a temporary cheap labor program, but as a necessary step in a comprehensive effort to bring our immigration policy to order under the rule of law.

In my written statement, Mr. Chairman, I tried to go into much more detail about the comparisons between the Reagan, Carter, and Commission proposals, how the Commission proposal would work in detail, and what it would cost, what its impact would be, and what the long-range implications for immigration would be.

Thank you very much.

Senator SIMPSON. Thank you very much also.

You two have done so much work, and both have the same depth of sincerity and drive on the issue. It is very helpful to have you both here on the same panel. Thank you.

I know you must leave, Senator Huddleston.

Senator HUDDLESTON. Yes.

Senator SIMPSON. Thank you so much.

We should set up a forum where we would have you and he at opposite ends of the table speaking on this one issue.

Dr. FUCHS. I would love it.

Senator SIMPSON. You would. He would, too.

Dr. FUCHS. Yes, I would love it.

Senator SIMPSON. Well, I remember in your work on the Select Commission you visited with Senator Huddleston on several occasions about this legislation and his ideas. That is true, is it not?

Dr. FUCHS. I think he has been interested in this for a long time, and he has a point of view which must be heard. It represents a

large segment of the American public, although I do not agree with some of it.

Senator SIMPSON. Yes, that is true.

Dr. FUCHS. My own view is that there is another threshold of study required for Senator Huddleston. I do not want to sound the least bit supercilious about that, but I think what is needed in this issue more than anything else is leadership, Senator. And I appreciate the leadership you are providing, because it is such a difficult issue.

The obvious answers, the ones that come to the surface, that come to mind first, are not necessarily the right ones. And I think that is true with respect to the legalization program.

Senator SIMPSON. I do think Senator Huddleston expresses the wishes of a great many in our society and expresses them very articulately and without a lot of posturing in the process, which is very helpful.

We have considered his legislation, the administration's legislation, the work that will come out of this subcommittee, the Select Commission, the drafts that were done there, and all of the material that we deal with.

Anyway, I thank you again, too. I have some questions. One of the compelling arguments for making certain that new enforcement measures are in place and proven effective before instituting the legalization program is that the American people—and you have heard me say this before—in my mind will never accept a legalization program unless they can be assured this is a one-shot deal and that this is it, this is a one-time occurrence. And we might buy that unique proposal if it will not happen again. And the policymakers in this country are not going to allow it to happen again and will prevent the situation which gave rise to it.

How do you meet that type of argument while still advocating that legalization should be simultaneous to the new enforcement package?

Dr. FUCHS. My argument is that the institution of the measures to curb future flows including an effective employee eligibilty system—and as you know, I don't consider the administration's proposed system is secure enough—is that the introduction of that will begin a threat scenario to deter future flows combined with targeted enforcement at the borders and ports of entry, and with respect to visa abuses and people who lapse out of status.

If that enforcement is targeted based upon the knowledge we gained from the legalization program, it will be much more effective. Therefore, the legalization program itself becomes, is, an integral part of the control program. So that I meet that objection by saying it really isn't an objection at all. If one thinks this issue through, one will see that it is much better to have both enforcement and legalization in place.

And you see, it all depends upon what is meant by in place, or what is meant by instituted. To my mind, the sequence should be something like this. The legislation would pass as a comprehensive bill, and the institution of an employer sanctions—employee eligibility law and the announcement of the preparation of the legalization program would be simultaneous. The legalization program

could begin about 6 months after the new measures for enforcement, including employee sanctions, have been instituted.

Then there would come the 12-month period which would bring to us three great advantages through this legalization program. First, the knowledge would be tremendous in terms of such things as smuggler use patterns and particular patterns of entering. Second, it would enable us immediately to start the targeting of our enforcement resources, including those for enforcement of employer sanctions. Third, we will know for the first time which towns and villages people come from and be able to do something at the source to inhibit flows.

Without the legalization program we would complicate our enforcement very much. We would leave in our country an underclass who have been around longest, who know the system best and how to get around it, know the ropes, and who are going to be a distraction in terms of enforcement efforts.

So that is the way I get around the objection you mentioned, by trying to explain to people that these things go hand in hand. Legalization and new enforcement measures complement each other. I don't see it as being tough and being nice but as having an immigration policy that makes sense and having some control over it. It will continue to be a generous, humane immigration policy. It will be more humane if we have control over it, in my opinion.

So I do not see it as a complication that the legalization take place very close to the institution of new enforcement measures. I see it as a great assist to the effectiveness of those measures.

Senator SIMPSON. What steps do you think we can take in adopting a legalization program to insure we would have a greater degree of success in such a program than, say, the countries that experienced this same legalization process, Great Britain, Canada, and Venezuela?

Dr. FUCHS. We addressed that issue. I will give you the page references to the staff report for the staff. They are 636 to 642, where we reviewed in the staff report the other amnesty programs.

One of the things wrong with the amnesty programs in England and Canada, for example, was that it wasn't simple, it was complicated. That is one of the things which is not good about the administration's program. It complicates the administration of it very greatly. It complicates one's ability to articulate it clearly, to get the message out and to say what it is you are doing.

In the case of the Australian amnesty, it was for a 3-month period and that was a serious mistake. In addition to that, England really does not do a good job of enforcing its immigration laws. I think what the Select Commission was trying to say was you don't let up in the enforcement of immigration laws with the legalization program; you make that a part of your enforcement program and you continue to enforce. Because enforcement plus legalization is a motivation for eligible people to come out of the shadows. If they are entitled to the resident alien status under the legalization qualifications, then they will be more likely to come out and get that benefit.

Australia had the complication of a much too short time frame. Canada's was too short a time frame, also. That was only about 4

months. Not good publicity, and both England and Canada had too complicated a system.

Senator SIMPSON. Some oppose the large-scale legalization program, leaving it to one's own definition as to what large-scale means, because they believe that once permanent resident status is granted, then those persons are going to elect to receive public assistance rather that continuing to work at low-paying jobs. What evidence—would you share with us, please, what the Select Commission found with regard to that trend among new immigrants, whether there was more or less of that with certain ethnic groups or countries requiring or requesting public assistance after that came about?

Dr. FUCHS. I was very interested in this morning's discussion about that because some people pleaded almost total ignorance on that, and we are not totally ignorant about that subject.

For detailed information, one might look at pages 636 to 642 in which one finds a table or a series of tables that tell about the impacts with respect to each particular welfare program, each particular system, food stamp system or aid to dependent children that come out of the various studies on the impacts of illegal migrants. It reviews 11 different studies on the impacts of illegal migrants.

You asked this morning about food stamps, for example. If you look at the table dealing with food stamps, you will find in those 11 studies only 3 of them referred to food stamps. In no case was the percentage of illegal aliens who were on food stamps, above 5 percent. In the north Houston study it was below 1 percent, and so on.

One of the thing that surprises me about the studies is the very small percentage of persons who have children in school at the present time, and about half of these 11 studies reviewed on impacts concerning services deal with education. That surprises me. The numbers are very low, they are 2, 3, 4 percent across the board. It either means there are folks not sending their kids to school in some number, or that the proportion of children of school age of the illegal migrants, at least in those studies, is smaller than I might have hypothesized it would be.

Now, your question is what will be the impact on benefits and costs immediately. The overall impact, in the aggregate, will be healthy and positive. The local impact particularly on some counties and local jurisdictions that have to pick up hospital bills and educational costs will definitely be there.

But the aggregate contribution of legalization will be very great, because by mainstreaming these people, they will be more productive, they will contribute to economic growth, they will participate in our institutions more effectively, and they will be more effective as taxpayers. There's no question about any of those things. Right now they are effective as taxpayers, but they will be more effective.

The problem is you have the localities bearing the burden of educating the youngsters, and you have the local medical facilities in some cases strained in bearing this particular burden. So an effort must be made in the legalization to deal with that disproportionate negative impact.

Senator SIMPSON. Was there any trend among certain groups to use public assistance more than another in those situations?

Dr. FUCHS. People who have been here longer tend to use it more than people who have been here for less time. Women tend to use it more than men. Mexicans tend to use it less than others.

Now, sometimes there are mutually reinforcing variables, because there are more women among—non-Mexicans, for example—among the illegal alien population. There are more women among those who come as visa overstayers than among those who enter without inspection.

So these are variables which, to some extent, stand in for each other. But there are certain patterns that one can pick up.

Senator SIMPSON. What is your view, if we go through the legalization process, on how can that be implemented without completely choking and stifling the current INS operations?

Dr. FUCHS. Well, I have my view as to the Reagan administration proposal, and its negative impact on administration because I think it will be a chaotic thing to administer if people turn up. I do not think they will turn up, and I think the purpose will be defeated.

If the Select Commission's approach were followed, I think you would have to bring into the process the community and voluntary organizations for outreach so that they become, on a contract basis, the screening agents as well as the persons who are involved in the outreach effort. The screening agents, would make an initial determination as to whether or not a person clearly will qualify, that their bona fides are so clear as to whether a person will not qualify or as to whether it is an indeterminate inbetween situation.

If it is indeterminate there would be a next step where legal advice would be given either through pro bono or paid by the alien or voluntary agency on a nonreimbursable basis. The INS then comes into it at that point, much of the work having been done. The INS at that point has a much lessened administrative responsibility and makes the final validation of the alien's application.

Not all aliens, of course, who are eligible will come in. Not all aliens in the country, I should say, who are in the country will be eligible. Let's assume a high number. Let's say there are 6 million. Let's say 3 million will be eligible, and let's assume another high number and let's say there will be 1 million, 1½ or 2 million who will come in.

This is going to be stretched out over a period of 12 months. The INS is going to advertise in advance. It will use the voluntary agencies. As the people come in, the INS validation offices will have responsibility, but it will be considerably less than if they took the job on themselves, and it will cost much less.

I also believe the legalization program will cost nothing, should cost nothing, even at a minimum of $25 per applicant. And I consider that to be a small amount of money to pay to go through this process of application. And that would give revenue of approximately twice the cost, as we have estimated it, of actually processing the applications.

Senator SIMPSON. You disagree with the legalization program as expressed by the administration. What do you see as its most serious defects?

Dr. FUCHS. No. 1, the practical ones. It is hard to communicate and articulate so that people will not come in, and we will defeat

the purpose of making it an integral part of the enforcement package.

Two, it is not sufficiently tied to an enforcement strategy, an overall enforcement strategy, including a secure means of employee eligibility. So again, on those two grounds, it is weak.

Three, if people did come in—if I am wrong about that—and you got an amnesty or whatever they want to call it, and people turned up in very large numbers, what we would then be providing would be a rolling registry for a temporary worker program. This rolling registry would institute a second class of alien who would be denied certain privileges and benefits, one of which would be the right to petition for his immediate relatives, which, of course, would lead to very great more pressure for illegal migration.

So the third thing that is wrong with it is that you have all of the deficiencies of a temporary labor program. You have a second class of alien set up in the country going further away from the direction in which this country has moved in recent decades.

And finally, in this 3-year renewable system, you would have set up a much more difficult administrative situation than you would in a one-time comprehensive legalization program for the INS.

I should add, any temporary worker program, like this one, given the first two deficiencies I mentioned, will be likely to lead to more illegal migration. That is my opinion.

Senator SIMPSON. That is an historical perspective, that latter comment, is it not?

Dr. FUCHS. It is.

Senator SIMPSON. What do you think would be the implications on the future of immigration patterns as a result of a large-scale legalization program?

Dr. FUCHS. That is a subject which has received—well, I would say—less light than it should receive. It is not all that elusive. One has to make certain assumptions.

If one assumes, let's say, a very short period of residence for a comprehensive legalization program, and let us say that 60 percent of the illegal aliens in this country would be eligible to turn up to qualify. Well, if that happens, then we know what the number will be. It will be roughly about 1.5 million that actually go through the validation process and become legalized.

So let us start with the assumption that 1.5 million folks will do that. They will go through that process, be validated and get the status of permanent resident alien. Then one can move the assumption down or up and adjust the figures which I am going to give you right now.

We know, we think we know from looking at the variety of studies on the composition of the illegal alien population—and by the way, I want to say a word about the statistical business. I feel a bit guilty about this because I feel I may have contributed to this almost anti-intellectual way of looking at statistics on this wave of immigration. Because I felt so strongly that the Select Commission should not be led into believing that we could come up with conclusive data on the impacts of illegal aliens.

Senator SIMPSON. You heard the commentary of Diego Asencio this morning?

Dr. FUCHS. I did, and I think that goes way over to the other extreme. I was not for us doing a great many studies on the impacts of illegal aliens and their composition for two reasons, and I would even add a third. One, not an adequate assessment had been done on the work that had already been done, and I do not like spending money to do more studies when you have not even studied what has come in.

The second reason is basically we did not have the time. And third, I do not want to lead the Commissioners or anyone else to believe that we were going to have the conclusive answers to these things. But that does not mean you throw out the studies. We have a great many studies on composition and impacts. And if you check them and cross-check them, it comes out that about 40 percent of the illegal aliens in this country are married.

If you assign a high number of children to those 40 percent, say 3 children.

Senator SIMPSON. Four was the figure they used this morning.

Dr. FUCHS. Four children for every illegal alien who is married?

Senator SIMPSON. That is a figure that came into the testimony this morning.

Dr. FUCHS. Well, we have in here a review of the 11 studies on composition and it comes out to 3, if you cross check the studies.

Senator SIMPSON. Three point five? We will use that.

Dr. FUCHS. A minimum of 60 percent of that group have spouses and children who are here. It may be as high as 80 percent.

Overall then, whether it is 1.5 million, 2 million or 1 million, 8 to 16 percent—and that is a big spread—of the legalized aliens will have relatives overseas, or are likely to have relatives overseas. If it is 1.5 million that means there would be 375,000 to 775,000 immediate relatives overseas eligible to come in as the relatives of resident aliens.

Now, the 775,000 figure—let's take it. I think it is a very high number. I think it is an extremely high number, even for 1.5 million aliens. Very high. But let us take it. And a recent study, by the way, indicates to me that it is quite high. Shelly Marrom's study of the garment and restaurant workers in Los Angeles goes into composition carefully, and it indicates to me that this would be a high number, but let us take it.

You have 775,000 persons who would be eligible to come to the United States as the close relatives of resident aliens. Let us assume that we keep our present preference system. What does that mean? That means that they are added to the present backlog.

Now, someone said this morning the present backlog is one million, but that is not accurate. The present number of persons registered for visa applications is a million. The number of persons who are bona fide, actual applicants for visas who are likely to come is probably about 600,000. We went over this with the State Department very carefully at the time.

Now, who are these 600,000? More than half of them are brothers and sisters in the backlog. If you look at the ratios in the backlog—I am trying to give you this information because it relates to how much pressure will actually be applied to the system. Of the million persons on the theoretical backlog, more than 500,000 of them are brothers and sisters, fifth preference. About 230,000 of

them are nonpreference. The key place to look is second preference, where you have about 168,000 of them.

Now, these folks—the immediate relatives, wives, husbands, minor children of newly legalized aliens—would be added to that pressure point; and they would have to wait their turn and come in under whatever numerical limitation exists for that number.

The Select Commission recommended that that particular preference be lifted out of the system. No per country ceilings would be applied, and second preference would be given a higher number than it has presently. But even if we keep the present number, its present limitation, the persons who are to be the relatives who benefit from the applications of their newly legalized alien relative will simply have to wait their turn. And there is nothing so horrible about that.

Their husbands or wives will have achieved a considerable benefit. Their husbands or wives will be able to go back to the home country lawfully and to come back to the United States lawfully as a resident aliens. They may have to wait 3, 4, or 5 years to come to this country, just as people do now. That is not such a horrible thing.

Now, what about the future? Some will become citizens. Some countries have high rates of naturalization. The Philippines very high. Mexico very low. Philippines, over a 5-year period 75 percent of them are becoming naturalized. Mexicans, after 5 years only 2.5 percent, 2.8 percent become naturalized.

So the next pressure point to look at is those who are numerically exempt. In the work we did, Mr. Chairman, we estimated at a high side an average of 170,000 numerically exempt for the next many, many years to come, on the average. If you start to add all the numbers up, even with a legalization program such as this one, numerically exempt at 170,000 refugees averaging 100,000, even adding the 100,000 to clear the backlog for a period of 5 years, and increasing the numerically limited from 270,000 to 350,000, and taking into account at the appropriate net emigration figure—and for refugees it was only 5 percent—it is not such a tremendous pressure. It brings us to a total population of 274 million by the year 2050, assuming the fertility rate stays the same as it is today at 1.8 and negative population growth of minus 0.080.

Senator SIMPSON. Are those the Bouvier figures you are using?

Dr. FUCHS. Yes.

Senator SIMPSON. 274 million?

Dr. FUCHS. 274 million by the year 2050, if you have an average net migration of 500,000 a year for the next 70 years including the legalization program. What this does is a very small pressure to the system but hardly changes overall numbers at all.

Senator SIMPSON. I thank you for your testimony. As usual, it has been provocative and helpful with a great deal of experience behind it. I cannot emphasize enough what an extraordinary Executive Director you were for the Select Commission, and an even more extraordinary educator, not only in your other life, but in your life as Executive Director as you took the 16 members; 8 from Congress, 4 from the public, and 4 from the executive branch, through the entire 2-year experience. I think that I am not exaggerating when I say that when we started many of us did not know

xenophobia from Xerox. And we have come a long way since then, and I am most appreciative.

You and I have not agreed on certainly all of the issues, but in our disagreement I have learned, and it has been a pleasure.

Dr. FUCHS. Well, I want to say that I had 16 bosses and you were among those who really became involved in this issue. From the point of view of considering what is best for the United States of America, without any particular ax to grind, without any prejudice, free of racism, and openminded. And it made the work a great privilege and I thank you for that, Mr. Chairman.

Senator SIMPSON. Thank you, Larry.

[The prepared statement of Professor Fuchs follows:]

Prepared Statement of Lawrence H. Fuchs

In August 1977, President Carter sent to Congress a proposal to make it possible for an illegal alien to adjust his or her status to that of permenant resident alien if he/she had lived in the United States for at least seven years prior to January 1, 1977. In effect, the proposal called for an amendment to Section 249 of the Immigration and Nationality Act which permits an alien who has documentary evidence of residence in the United States since 1948 to apply to a local INS office in an effort to create a record of lawful admission for permanent residence. Although precise data did not exist on how many aliens would have benefited from the Carter proposal, the Department of Justice estimated in late 1977 that approximately 765,000 illegal aliens had lived continuously in the United States for the previous seven years or longer and would, therefore, have been eligible.

This was a forgiveness program -- an amnesty -- for persons who had been around quite some time, had established equities, and in some cases, were even unaware that they were already qualified for legal resident alien status.

There were two major problems with the Carter proposals. First, no clear policy was established with respect to those aliens who did not qualify under the 1970 cut-off date, thereby assuring that a large majority of them would not turn out for a legalization program. Second, the legalization program was not linked to an effective proposal for curtailing future flows. Therefore, it was not seen as a one-time measure and could easily have been perceived as an inducement for future flows.

The Reagan administration proposal has tried to deal with the first of these deficiencies but has introduced other serious problems.

Quite properly, the Reagan administration recognizes that it would be impossible to uproot and deport millions of undocumented aliens currently living in the United States. It adopted the recommendation of the Select Commission to legalize aliens who had either entered the United States illegally or who

had let their legal status lapse prior to January 1, 1980, if the alien is otherwise admissable to the United States, with certain exclusion provisions waived. It accepted the recommendation of the Select Commission that the alien must register with the INS within twelve months after the Attorney General annouces that registration has begun. But instead of granting permanent resident alien status to the aliens, it created a new status of aliens called "temporary resident status," with the promise that anyone who worked in such a status continuously for ten years in the United States would then be eligible for permanent resident status.

Thus, at least in theory, the Reagan proposal is superior to the Carter proposal in that it aims at comprehensiveness. But it fails, as did the Carter proposal, to link a legalization program to the effective curtailing of future flows through an employer sanctions - reliable employee eligibility work system. And it reintroduces into American law and society the concept of a second-class alien whose labor is desired for a period of up to ten years during which time aliens will have few of the entitlements accorded to resident aliens and citizens, be separated from their families, and have no inducement to upgrade their education, to become more productive members of the society, or otherwise participate in mainstream American institutions.

Once again in American history we will have introduced the idea that only certain kinds of people are fit for certain kinds of work. We would have put our stamp of approval on what has already become the largest foreign temporary worker program in history.

The question of the status of newly legalized aliens goes to the heart of how we define ourselves as a nation. It speaks to the fundamental meaning of the 14th Amendment which provides equal protection of the law for all persons residing within the United States. Of course, equal protection of the law does not mean that aliens should share all of the rights and privileges of citizenship. Perhaps we should strengthen our concept of citizenship. But it does mean that every person who is in the United States legally should be entitled to earn those rights and privileges on equal footing, no matter how stringent the requirements. It means that every alien who lives and works in this country should be

treated with equal dignity even though certain privileges such as voting or serving in the United States government in certain positions are reserved for citizens.

The creation of such a second-class of aliens might seem desireable to some persons such as those who employ them. But it would not be beneficial for the grandchildren of those employers. History tells us that the more quickly plantation contract laborers in Hawaii -- Japanese, Chinese or Filipino -- or migrant contract laborers from Mexico in California and other states were permitted to participate in American institutions on an equal footing, the more productive they became. While cheap foreign labor may be good in the short term for those who employ it, the economic rewards for the society as a whole are much greater when all persons within the United States are given equal opportunity under the law to move about, marry, establish roots in a community, and choose their place of work. That is the kind of society we have become proud of; that is the kind of society that has given us great welath. It encourages human aspiration and motiviation; it does not set artificial limits on ability; it does not create classes defined by ethnicity or color.

Apart from this fundamental objection to the form of the legalization program envisioned by the Reagan administration and the failure to link the proposal to the Select Commission's idea of an effective employer sanctions-employee eligibility system, there is one other quite practical objection that must be considered. The Reagan administration proposal would probably produce a small turn-out.

By overly complicating the form of the registration program and by denying family unification and basic welfare benefits to those who register, the intention of the Reagan administration to have a comprehensive legalization program would be frustrated. That is all the more likely because of the failure of the spokesman for the administration to speak of a large role for community and voluntary organizations in the registration scheme or of a non-threatening validation procedure which guarantees immunity from enforcement action for persons who apply to register and do not meet the eligibility criteria.

I do not minimize the incentives to register. Those who were legalized -- even in a second class alien status -- would no longer have to worry about deportation. They could go to hospitals for emergency treatment without fear of detection. They could visit their homelands and cross the border with a valid entry permit. These are not inconsiderable advantages as is the authorization to earn good money for three years. Yet, I know from my work with illegal aliens and voluntary agencies that it would be extremely difficult to get a large turn-out for such a legalization program as contemplated by the administration. Amnesties in other countries have been notoriously unsuccessful. They require a simple and well publicized system of registration. Just as importantly, they require the development of a fail-safe method of application and the creation of an atmosphere of trust which makes the system and that method believable. But let us say that all these things are accomplished and that a large turn-out ensures. I would argue that the United States of America would still be much better served by the kind of comprehensive legalization program envisioned by the Select Commission's recommendations.

The question of turn-out is important because it is linked to control of future flows of illegal aliens. A small turn-out would defeat the important objective of obtaining a representative sample of illegal aliens in order to gain vitally needed information concerning sources, routes of entry, smuggler use patterns, and impacts of this population. By complicating the registration system and by hedging the benefit to be confirmed through legalization, the administration's proposal will have a chilling affect on turn-out and thereby defeat this government in its quest for vital illegal alien information.

In summary, the administration's proposal has a series of disadvantages not incurred by the Select Commission's recommendations: the maintenance of a single standard of opportunity for persons in the United States regardless of nationality background or color; the failure to encourage mobility and productivity on the part of those living and working in the United States; the failure to provide for the orderly reunification of families in order to deepen the roots and to strengthen the loyalty of those working and living in the United States; the failure to assure a high turn-out of registrants in order to more effectively target enforcement resources on the curtailment of future flows

by reducing sharply the number of illegal aliens subject to apprehension and deportation and also by providing vitally needed information; and the failure to link legalization to what I believe would be an effective employer responsibility-employer eligibility law.

HOW WOULD THE LEGALIZATION PROPOSED BY THE SELECT COMMISSION ACTUALLY WORK?

The Commission was clear on the desireablity of a comprehensive legalization program. Such a program, the Commission stated in its final report, would yield the following benefits:

- Qualified aliens would be able to contribute more to U.S. society once they came into the open. Most undocumented/illegal aliens are hard-working, productive individuals who already pay taxes and contribute their labor to this country.

- No longer exploitable at the work place because they are unwilling to avail themselves of the protection of U.S. law, as is true presently, legalized aliens would no longer contribute to the depression of U.S. labor standards and wages.

- Legalization is an essential component of the Commission's total package of recommendations to stem the flow of undocumented/illegal migrants and will aid in the enforcement of U.S. immigration laws. It will enable INS to target its endorcement resources on new flows of undocumented/illegal aliens.

- For the first time, the United States would have reliable information about the sources (specific towns, villages and provinces) of undocumented/illegal migration and the characteristics of undocumented/illegal aliens. This information will further facilitate enforcement efforts to curtain future flows. It will also enable the United States to focus bilateral or unilateral aid and investment programs in ways that might deter migration at its source.

The Commission, having strongly recommended legalization, left many of the

details of the program to Congress to formulate and to the Immigration and Naturalization Service to implement. The staff, in its Staff Report, prepared details of legalization program and an evaluation of its impact following several consultations with experts, meetings with illegal aliens, and analysis of testimony at public hearings.

It met with representatives of local govenment in California, the National Association of Counties, voluntary agencies, the Department of Health and Human Services and the Immigration and Naturalization Service.

There was nearly unanimous agreement that a legalization program should have the following characteristics:

- o It should be simple;
- o It should be well publicized;
- o It should have a non-threatening validation procedure which guarantees immunity from enforcement action;
- o It should be accompanied by strong enforcement efforts to encourage registration and discourage future flows of undocumented/illegal aliens.

Simplicity

Simplicity is extremely important. The determination of eligibility should be simple beginning with grounds for exclusion and length of residence for eligibility. On grounds for exclusion, the best procedure would be to give the Attorney General the authority to waive exclusions except for aliens: likely to become a public charge; those who have a chronic drug addiction or chronic alcoholism; those convicted for trafficking in narcotics; those with the intent to engage in activities prejudicial to the public interest or to endanger the safety or security of the United States; those entering to engage in an activity prohibited by law or subversive of the government of the United States; and aliens who have been Nazi war criminals.

The Select Commission staff also recommended to the Congress that it was important to prevent a large number of persons who entered this country legally

from falling out of status in order to meet the residency qualifications for legalization. Its recommendation was that such persons must have fallen out of status by the time of the Commission report or some other target date set by Congress. For example, a non-immigrant whose visa had expired and a student who has been caught working in violation of his visa by that date would both be eligible for legalization. But a student who worked without being detected and whose visa was current could not choose to report a technical violation -- working illegally -- and qualify for permanent resident status.

In my view and that of my former staff, the continuous residency requirement for participation in the program should be no longer than two years. I believe that most of us would set the term of one year. According to staff estimates, even if the residency requirement was set at two years, no more than 60% of the now resident undocumented/illegal alien population would be likely to qualify. If the residency requirement was only one year, perhaps as many as three-quarters would qualify.

Should the residency requirement be increased to three eyars, an estimated maximum of 45% of the illegal/undocumented aliens would qualify. Watever residency length would be chosen under this scheme, whether three, two or one year, there will be a residual group, persons who entered prior to January 1, 1980, but who have not lived in the United States for the length of time required to register in the twelve month registration period. Should the Select Commission's proposal be adopted by Congress, I would suggest that those who met the date-of-entry requirement but who did not fulfill the continuence residency requirement of one or two or three years be granted a conditional entrance status which entitled them to work legally in the United States. After the accumulation of three years of continuous resicence in the U.S., they should become eligible for adjustment to permanent resident alien status, keeping in mind that those who entered or fell out of status after January 1, 1980 would be subject to deportation. Such an approach would have the advantage of spreading out the work load created as well as narrowing further the target for the concentration of enforcement effort.

The contrast between this approach and that of the administration should

be clear: under this approach, the proportion of conditional entrants would be relatively small; the conditional entrant status would be relatively short duration; the turn-out for legalization would be much greater; the program would be easier to administer; it would enhance rather than complicate enforcement efforts.

I commend the Reagan administration for proposing a twelve-month registration period. One year, with additional periods for the start-up and phase-down of the program, would be sufficient to provide outreach activities and to assure that there would be sufficient time to check on elgibility prior to actual contact with the INS. It is a short enough period so that the one-time nature of the legalization program would be clear and persons would not be misled into postponing application.

Publicity and Outreach

Public outreach efforts are indispensable for success. Many centers of communication could be used including the following:

- The centers that presently cooperate in the Immigration and Naturalization Service's outreach program;
- Private and church-sponsored social centers under the auspices of such agencies as Episcopal Community Services, Lutheran Social Services or Catholic Social Services, etc. Their staffs could be trained through the existing immigration centers such as those in a network of United States Catholic Conference Migration and Refugee Services or ecumenical enters such as Centro de Asuntos Migratorios, Centro de Aztlan (Texas), Manso Arizona);
- o Other agencies who receive government money such as the Chicano Federation should be able to provide referral to other agencies;
- o Medical facilities could disseminate information;
- o Churches could have special meetings after services;

- Media -- all Spanish speaking stations -- could be used;
- Schools could hold information workshops.

In addition, outreach efforts could be conducted in places of employment. An information compaign conducted through respected and trusted community-based groups should be held to provide accurate information about eligibility requirements, the benefits to be conferred and the fail-safe mechanisms for establishing eligibility.

And this is important. Undocumented/illegal aliens should also be informed of the new enforcement efforts that will affect their future if they do not legalize or return to their homelands.

Validating Eligibility

The initial screening of applicants should be done by voluntary agencies and community organizations working under contract to the government. That will increase confidence in the program while reducing its costs and insuring prompt processing.

This system of cooperation between INS and voluntary agencies worked very well with the Indo-Chinese refugee adjustment program and it is described on pages 652 and 653 of the Staff Report of the Select Commission.

After screening documents to demonstrate residency and after questioning applicants about their admissability, the voluntary agency representatives would give applicants an evaluation of their qualification for legalization. All applicants would have a choice, based on this evaluation, of requesting an interview with the INS, making no further attempt to register if their eligibility was marginal, or having their case reviewed by an immigration lawyer, who would work on a pro-bono basis or be paid by the applicant. If an alien pursued legalization after knowing his/her eligibility had some problems, they would do so knowing they faced the possibility of deportation.

Applicants for legalization would be requested to bring the following documents with them:

- o Documents to prove continuous residence in the United States, the length as determined by Congress;
- o A Statement from employer, if employed, that their prospects for continued employment are good;
- o Evidence, if not employed, that the applicant is being supported and will continue to be supported while remaining in the United States;
- o All papers issued to the applicant by the INS:
- o Record of birth for dependents born in the United States.

It is important that applicants for legalization experience a simple validation process. One or more of a wide range of existing documents could be used to demonstrate residency: bank books, rent or tax receipts, leases, deeds, licenses, birth or baptismal records of children born in the United States, census records, police records, contracts, post marked mail addressed to applicant, premium installment receipt books and other receipts, school records, employment records, insurance records, union or ~~lodge~~ lodge membership records, letters from business firms showing dates of business dealing with applicant; a water or telephone company bills or receipts; letters from landlords showing that applicants lived on their premises and law certificates and divorce decrees issues in the United States.

At the initial interview, the voluntary agency or community organization representatives would screen documents for completeness and applicability. Checks would be made on the legitimacy of documents and statements provided by the applicants. Excludability grounds would be examined. The voluntary agency interview would then advise the applicant as to his/her eligibility. Three determinations could be made:

(1) The applicant has a strong case for legalization and he/she would

be encouraged to submit a formal application to INS.
In this case, the voluntary agency representative would arrange a medical examination, fingerprint the applicant so that local police and other law enforcement agencies could be checked to insure that applicant is not a threat to public safety, and advise the applicant about the questions likely to be asked by the INS. The agency would then schedule an appointment for the INS interview.

(2) The applicant has a very weak or no case for legalization. In this case, the applicant would be advised that if he/she submits a formal application, it would be turned down and that he/she would either be deported, required to depart or removed under safeguards.

(3) The voluntary agency is unable to determine if the applicant is qualified. In this case they would advise individuals that they did not qualify and could submit marginal applications (without names and addresses) for INS review. If INS indicated that the application would be denied, applicants would have two choices: to make no further attempt to register for legalization, or to have their case reviewed further by an immigration lawyer. In the latter instance, the attorney, either on a paid or a pro-bono basis, would provide counsel.

Interviews would be held by INS adjudicators in locations provided by the voluntary agencies or community organizations or at INS offices. Representatives of the voluntary agencies could be present during the INS interview to act as interpreters when necessary and to explain the recommendation made. In the majority of cases there would be little need to revalidate the documents used to demonstrate residency. The INS interviewer would be more concerned with insuring that the applicant is not inadmissable on exclusionary grounds. On the basis of the interview and a review of all appropriate documents and forms, the INS adjudicator would make a final determination, as follows:

- The applicant is eligible for immediate adjustment of status to permanent resident alien; or

- The applicant is eligible for conditional entry with adjustment of status after three or four years, if this two-tiered program is the one Congress chooses to adopt; or

- The applicant is not eligible for either type of legalization and would be obliged to leave the United States.

Obtaining Vital Information from the Alien

The new legalized alien would receive an incalculable benefit, permanent resident alien status in the United States. What would be his or her obligation in exchange for that benefit? At the same time that the INS contracts with voluntary agencies to process applications it should also contract for the distribution and collection of questionnaires to be given to newly legalized aliens. Voluntary agencies could administer the questionnaires at the time of the final determination by INS.

The questionnaires would ask the legalized alien to provide information about such things as: specific origins, date of entry, number of times entered, where entered, how entered, how many times returned to country of origin, names of smugglers, employment record in the United States and in the country of origin, health conditions and emergencies, use of services while in the United States, tax payments and family relations.

I do not believe that the administration of such a questionnaire will appreciably reduce applications for legalizations. I have met with illegal aliens and put the question directly to them as to whether or not the provision of such information would impede their registration for a program like the one described above. The answer invariably is no. At one group meeting of illegal aliens, it was the clear consensus of those who responded that they would be willing to answer such questions as long as they did not run the risk of deportation. Since the recommended procedures would protect them from that, compliance with information gathering portion of this process -- an integral part of our effort to prevent future flows of illegal aliens -- will present no serious problem.

The Cost of the Program

The cost of processing legalization applicants under the voluntary agency plan described above was estimated by our staff to be from $15,100,000 for 1,000,000 applicants to $52,850,000 for 3.5 million applicants. At least $1,000,000 should be appropriated for the public information campaign which precede and accompany the legalization program. If INS were given total responsibility for processing applicants, the cost would be an estimated $36,000,000 for 1,000,000 applicants and $126,000,000 for 3.5 million applicants.

A fee of $25.00 would be charged all principal applicants applying for adjustment under the legalization program. Voluntary agencies would be paid a fixed fee for each applicant processed through the INS interview and might be given a basic grant for start-up and out-reach expenses. An application fee of $25.00 should cover the expenses to INS for all program activities, including the grant/fees to voluntary agencies.

The Impact of Legalization

The staff of the Select Commission held several consultations throughout the country and listened to public testimony on the question of the immediate impact of legalization on local communities. Of particular concern was the impact on the labor market and community services as well as on the long-term implications for immigration levels.

The displacement impact of legalization on U.S. workers was expected to be minimal since the undocumented/illegal aliens eligible for the program are, for the most part, already in the work force.

The impact on education policy would in the short run be minimal since, in most states, the right of children of undocumented/illegal aliens to participate in public education programs is accepted although the issue is still pending in a case before the Supreme Court. Of course, there may be a significant number of children not currently enrolled who would enter school, although this is unlikely to have much effect until after the families of legalized aliens enter the country. The information-gathering efforts of the program

would provide data for local school systems so that they could plan for that increase.

Health facilities would probably be the prime beneficiary of the program. Various hospitals and city/county authorities argue that they suffer financial loss because of the presence of undocumented/illegal migrants. These officials see legalization as beneficial since more aliens would be eligible for third party reimbursement through private insurance or public funds.

Payment for health care will more likely come from insurance and private payments than public funds. There is little reason to believe that any substantial proportion of legalized aliens would receive medicaid assistance. The public charge exclusion will screen out those who would require such assistance. In addition, from what we know about undocumented/illegal aliens, they tend to be hard working, productive members of society whose ambition and drive to work is not likely to be hampered by legalization. Just the opposite should be true.

In analyzing the impact of legalization on community services, it is important to take into account the benefits that will accrue to health and education in the society generally. With legalization, there will be no reason for undocumented/illegal aliens to hide. Public health problems will be reported. Children will be educated.

What about the long-term impact on immigration levels?

In considering the question of the impact of the legalization program on future immigration levels, it is important to remember one of the most important conclusions of the large majority of the Select Commission on Immigration and Refugee policy -- that it is in the United States national interest to slightly increase the number of legal immigrants admitted to this country annually even as we curtail sharply the number of illegal migrants who come and stay. Clearly, immigration contributes to family reunification and thereby to social stability. It also contributes to economic growth. In addition, it contributes to national defense and strengthens our scientific, cultural and linguistic resources. On those grounds, the Commission recommended that the annual numer-

ically restricted limit on immigration be increased from 270,000 to 350,000 visas with 100,000 visas provided each year for five years to help clear existing backlogs.

It was the strong view of the senior staff of the Commission that 250,000 visas should be allocated for family reunification and that 175,000 or 70% of these should be made available for the immigration of spouses and minor, unmarried sons and daughters of permanent resident aliens. The Commission also voted to establish a separate category of admissions for what is now Second Preference -- the immigration of spouses and minor, unmarried sons and daughters of permanent resident aliens -- which would be exempt from per-country ceilings.

After legalization, aliens should be allowed to petition for their immediate families under the normal immigration process. It would be wrong to provide a special status for overseas relatives of legalized aliens which put them ahead of backlogged applicants who have waited years for their immigrant visas.

The immediate relatives of newly legalized aliens would be accommodated in due course by these changes without significantly increasing the number of new entrants to the U.S.

Ultimately, there would be some increase in demand resulting from the legalization program for admission of the close relatives of U.S. citizens since some proportion of the newly legalized aliens would become naturalized, although this rise may be quite small because of the relatively low naturalization rates among nationals of several of the principal undocumented/illegal alien sending countries. Following enactment of the new immigration system proposed by the Select Commission, the annual average of immigrants admitted outside of the numerical limitations might rise in time to about 170,000.

Of course, the extent of the pressure on the system will depend upon how many aliens come forward and how many will have spouses and children outside of the United States for whom they would petition either first as resident aliens

or subsequently as citizens. We estimated that the number of family members outside of the United States might range from 375,000 to 775,000 based on the assumption that half of an estimated population of 6,000,000 undocumented/illegal aliens might qualify under the legalization program, and that only half of those potentially eligible -- 1.5 million -- might actually come forward. Based on several studies of apprehended and unapprehended undocumented/illegal aliens, it is estimated that 40% of those granted legal status would be married and that each would have three children, one-quarter of whom would be U.S. citizens, and that 60 to 80% of the spouses and non-citizen children would already be residents in the United States.

The main thing to keep in mind is that the legalization program would not significantly increase thenumber of permanent entrants to the United States. This conclusion is based on the fact that the legalization program would cover undocumented/illegal aliens already here, many of whom were counted in the 1980 census. Some would be encouraged to remain in the United States, to become citizens and raise their children here, following legalization. But a great many would move back and forth between the United States and their countries of origin once they had legal status, probably increasing the rate of emigration for such people above the normal 30%. In any case, close relatives of the newly legalized aliens would be admitted to the United States under the number set for numerically restricted immigration. If the overall limit remains at its current 270,000, they would have to wait longer than if the limit were increased to 350,000 with an additional 100,000 each year for moving backlogs and an increase for second preference applicants as recommended by the Select Commission.

The Select Commission paid a great deal of attention to the question of overall limits. It faced certain facts in addition to those which consistently pointed to the benefits immigrants bring to the United States. Emigration rates are speculative. The fertility rate, now at an all-time low, could increase, although that is not likely. Large-scale migration of newcomers does create social and ethnic tensions which strain the capacity of the United

States to bring about a more just society. With these facts in mind, the Commission's approach to numbers was cautious.

Given certain assumptions, the recommendations of the Select Commission would lead to an annual average permanent net migration of about 500,000, which would bring the United States to a population of 274,000,000 by the year 2050, with a negative population growth rate (population going down) of - 0.08.

Those assumptions and other aspects of the question of limits are discussed in the Staff Report to the Final Report to the Select Commission on pages 100-108.

In conclusion, we should make no mistake about the population we are considering for admission to the United States. They would be healthy, able-bodied and hard working. They would become assets to this society. But never again should we be obliged to conduct such a large legalization program. Enforcement measures which reduced the flow of illegal migration to the United States to about 50,000 a year should be the goal of U.S. policy. The Select Commission's legalization program would help us to fulfill that goal.

Senator SIMPSON. So next we have Paul Egan, assistant director of the legislative division of the American Legion; Francisco Garza, Washington representative of the National Council of La Raza; and also Mr. Michael Harpold, president of the National Immigration and Naturalization Council, the American Federation of Government Employees.

I am sorry to be running late, but we are closing the gap a little. If you would just proceed in the order in which you appear on the agenda, Mr. Egan, Mr. Garza, and Mr. Harpold.

STATEMENT OF PAUL S. EGAN, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION

Mr. EGAN. Let me say first, Mr. Chairman, we appreciate this opportunity. I have spent a lot of time at these hearings. They have been comprehensive, and my organization commends you for the balance with which you have conducted them. And we appreciate this as especially true, recognizing your responsibilities as chairman of the Veterans' Affairs Committee. [Laughter.]

Senator SIMPSON. Oh, yes, that was very well done there. That is one we will get into with gusto next year. Right now, this is the full plate. But yes, I have enjoyed working with your organization as chairman of the Veterans' Affairs Committee, indeed.

Mr. EGAN. The American Legion appreciates this opportunity to present its views on the desirability of amnesty or legalizing the status of undocumented aliens residing in the United States. It is

our opinion that amnesty or legalization is undesirable and we strongly oppose the idea as unworkable, impractical, and unjustifiable for a variety of reasons.

In the years since 1978 and 1979, the Immigration and Naturalization Service reported that of all illegals arrested, more than half were employed outside the agricultural sector, and three out of five earned more than minimum wages. In late 1979 several aliens arrested in Chicago were found to be making over $9,000 per year in heavy industries. Also in late 1979, an INS survey indicated that aliens arrested in Los Angeles served 2.4 years on the job with earnings averaging $5.25 per hour. In midsummer of 1979, a foundry in Elgin, Ill., was raided, netting 69 illegals earning between $4.50 and $13 per hour. According to one report, it was found that illegals employed at a construction site in Virginia were making $16,000 per year with a foreman making even more.

Some 5 years ago, if I am not mistaken, this subcommittee's counterpart heard the testimony of a hooded witness who was working at that time for Metro in Washington. In a recently concluded study that this organization discovered, it was found that in the Houston metropolitan area fully one-third of all employees working on construction sites are illegals. What is even more alarming, much of that construction is contracted out by the Federal Government.

The implications of this study by Rice University economics professor, Donald Huddle, are remarkable if one first considers that the U.S. Government is inadvertantly subsidizing illegal alien employment; and second, that Government construction sites must provide wages in accordance with the Davis-Bacon Act. Indeed, Huddle found illegals working for between $4 and $9.50 per hour in a city with minority and youth unemployment ranging around 20 percent.

In the face of all of this evidence taken together, it is clear to this organization that illegals have a profound impact on the job market in all sectors of the economy. It is also clear that very large numbers of illegals are employed in jobs making far more than minimum wages.

We believe in most of these instances that many Americans would gladly stand in line to apply for these jobs. Moreover, the argument that illegals are only occupied in jobs deemed undesirable by Americans does not stand up in our view.

We raise these points because they constitute perhaps the most salient reason for opposing amnesty or legalization. Jobs held by illegals should and could be held by Americans.

A second reason we oppose amnesty or legalization is that it creates an injustice for those wishing to immigrate legally. For those having waited long periods of time as a consequence of pursuing proper channels in efforts to immigrate legally, amnesty can only be seen as a signal that the United States is electing to repudiate its own laws and is willing to reward the undocumented at the expense of the law abiding. Our estimation in this event is that further waves of illegal immigration subsequent to an amnesty would be encouraged.

Yet another reason the American Legion opposes amnesty or legalization is that it would naively legitimize transgressions of U.S.

law. In our view, the merits of amnesty proposals beg the question of long-range solutions to the problem of illegal immigration. Amnesty for illegals makes no more sense to us than solving problems of prison overcrowding by releasing all prisoners with a view toward starting with a clean slate. Illegals will continue to enter the country as long as potent economic incentives exist, and for as long as they are permitted to get away with it, just as the criminally disposed will continue to prey on society for as long as they are free to do so with impunity.

As citizens under laws promulgated by legitimate representative government, we voluntarily bend de jure compliance. Necessarily as citizens, we have a right to expect reciprocal de facto enforcement by the Government. Anything less, in our view, is a dangerous breach of faith in the fundamental relationships of citizens to State and State to citizens. We are well advised to impart the seriousness with which we as a Nation regard these relationships to would-be immigrants.

Thus far, we have outlined our objections to amnesty. These objections are based on both principle and what we regard as sound public policy. It is our belief that immigration policies regarding the legals or illegals should stem from a sound assessment of U.S. national interests. Many of the arguments employed to justify amnesty fail to properly define or recognize the importance of the national interest.

One such argument bemoans the cost of finding and repatriating illegals. It is said that the dollar cost is so great as to justify amnesty. We submit the number of well-paid jobs held by illegals but desired by American workers has an even more unacceptable dollar and social cost.

A similar argument that since all illegals cannot be found and that the problem is therefore unsolvable fails equally as a justification for amnesty.

Perhaps the most appealing argument——

Senator SIMPSON. Can you wind it down? The red light is on and has been on.

Mr. EGAN. I am sorry.

Senator SIMPSON. Take a few seconds to summarize.

Mr. EGAN. In conclusion, the American Legion takes the view that policing U.S. borders is a sovereign right. As a Nation, we must seriously regard immigration, legal or illegal, with a sense of national interest. Where immigration is concerned, this Nation has always been and can continue to be the most generous in the world. We submit that American immigration generosity is something this Nation has given the world, a gift which we can all be proud of. To adopt amnesty or some other form of legalization for the undocumented, however, is an unsupportable forfeiture of sovereign control over precisely how generous we as a Nation can afford to be.

Senator SIMPSON. Thank you very much, Mr. Egan.

Mr. Garza?

STATEMENT OF FRANCISCO GARZA, LEGISLATIVE DIRECTOR, NATIONAL COUNCIL OF LA RAZA

Mr. GARZA. Thank you, Mr. Chairman. I would like to express my appreciation on behalf of the National Council of La Raza for your having invited us to present this testimony. I think the hearings are very characteristic of your leadership regarding this issue and I would like to thank you for that.

As you know, the council is a private, nonprofit, national Hispanic organization, which is comprised of over 120 affiliates, local Hispanic community organizations all over the country and in Puerto Rico.

I would like to just quickly tell you that the council is overwhelmingly in favor of the legalization program and we feel it is a necessary component within a comprehensive package of immigration proposals, and even more important, it is a necessary first step in the implementation of that package and I will get into outlining some of the reasons why we urge that.

Basically we are pleased that the legalization proposal has been included in proposals by the Select Commission and the Reagan administration two major groups, the two major policy groups who have looked at the whole issue. We are very pleased with that fact.

We have some serious problems, however, with each of those bodies' proposal for legalization. I will go over a couple of those pitfalls. First of all, in the Select Commission, the commission established a cutoff date and recommended that these people be given immediate adjustment of status to permanent resident alien.

The commission did however recommend one item that we are vehemently opposed to, and that is basically for the people who are ineligible or the so-called residual group of people who wouldn't be eligible to apply for legalization, the commission recommended that these people be subject to the provisions of the INA, voluntary departure or deportation.

We take strong issue with that, Mr. Chairman, because it is our basic belief, as my testimony asserts, that in conjunction with the legalization program and with any type of repatriation effort during the time of the legalization program would seriously undermine the effectiveness of that program. On the one hand you are trying to promote this underclass of population to surface to register with the proper authorities and investigate their probable status under the proposal.

However, with those folks who would not be eligible, knowing full well that they could possibly be deported, that inherent contradictory nature of the proposal is such that these people will not come forward. They will not come forward, knowing full well that they stand a good chance of not qualifying, and that they could be deported. I think it would seriously undermine the program.

We have some other concerns here that I will go over very quickly. With the Reagan administration's proposal, again, we are pleased to see that as a part of a comprehensive package for immigration. However, we have some real strong reservations about the administration's plan—the 10-year probationary period, this granting of a new, temporary renewable term temporary resident. We have very many problems with that.

Basically we don't think it will be effective. There is no incentive at all in the administration's plan for the undocumented to come forward and, secondly, it is violative of a key principle in the immigration policy as we have understood it which is the reunification of families. The council recommends that those people who are eligible and allowable to come, at least for relatives of their immediate family, and we say immediate family, that these people should be able to petition for those members of the immediate family and have them also legalized.

Let me quickly state our recommendations. We recommend and endorse the Select Commission's proposal for giving permanent resident status immediately to those who are eligible.

For the residual group we would urge that because of the fear and the possibility of deportation that may happen, we would urge that these people be allowed to continue working and living in the United States and be provided the opportunity to become legalized at a later time. These people are productive members of society and should be given the opportunity to become legalized, to be able to adjust their status to permanent resident alien. This is our recommendation for the residual group.

I notice my time has run out already. I appreciate the opportunity to testify and will be glad to answer any question. Thank you.

Senator SIMPSON. Thank you very much, Mr. Garza.

[The prepared statement of Francisco Garza follows:]

Prepared Statement of Francisco Garza

Introduction

Mr. Chairman, fellow members of the Senate Subcommittee on Immigration and Refugee Policy, I am Francisco Garza and I am appearing on behalf of the National Council of La Raza (NCLR) in my capacity as Legislative Director for the organization. As you are aware, the National Council of La Raza is a private, non-profit Hispanic civil rights organization dedicated to the improvement of the social, economic, and political well-being of Hispanic Americans in the United States. We are very appreciative of the invitation to offer this testimony in support of proposals to legalize the status of undocumented persons presently residing in the U.S.

The issue of both a fair and effective immigration policy for this country has long been a top legislative and public policy priority for the Council. Immigration policy has the potential for bringing about tremendous impacts on the Hispanic community in the U.S. with major implications for the protection of civil and human rights. The Council strongly endorses and urges the adoption of a legalization program to bring within the law undocumented U.S. residents, as a major component of a comprehensive package of proposals for immigration reform.

The legalization or "amnesty" proposal has received widespread support and has been recommended for adoption by the Select Commission on Immigration and Refugee Policy in its package of immigration reform measures. The Reagan Administration has also included an amnesty plan among its proposals for immigration policy.

The National Council of La Raza agrees that the inclusion of legalization among other immigration measures by policy-makers is essential, since the continued existence of a large subclass of people in this country is not tolerable, and their exclusion or repatriation is both impractical and unjustifiable. Many of these undocumented individuals have been in the U.S. for years and are among the hardest-working members of our labor force. But despite the concern for the welfare of those undocumenteds contributing to this society reflected by the current legalization proposals, there are some serious pitfalls to the legalization proposals as advanced by both the Select Commission and the Reagan Administration. My testimony will focus on (1) suggestions for strengthening certain aspects of the legalization program and (2) raising other issues for consideration within the context of designing a more effective program. Legalization is, after all, only one component of a comprehensive package of immigration measures which will likely be enacted together, and the National Council of La Raza is convinced that legali-

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zation and other measures -- and their probability of success -- are highly interdependent. How these various measures are balanced will determine whether the U.S. can achieve its goals of protecting the national interest while fulfilling the humanitarian ideals of this nation through our immigration and refugee policy. There are several flaws in the proposed legalization proposals which the Council fears could destroy its their effectiveness. These I will summarize briefly.

Amnesty Versus Deportation

To begin with, the Select Commission on Immigration and Refugee Policy unanimously recommended a program to legalize the status of undocumented immigrants now residing in the U.S. as of January 1, 1980, suggesting also that eligibility be dependent upon continued residency in the U.S. for a minimum period of time to be set by Congress. The Commission's recommendations as contained in its final report, however, are extremely ambiguous and even alarming. The Commission report recommended that those persons not eligible for the legalization program be subject to deportation or voluntary departure pursuant to provisions of the Immigration and Naturalization Act (INA). The National Council of La Raza is opposed to this recommendation because we believe that it would completely undermine the legalization program. On the one hand, the legalization program would attempt to surface the undocumented population to register so that authorities can investigate their status under the program, but the other hand, should an individual not qualify, that person would be subject to immediate deportation proceedings. The contradictory nature of this recommendation results from a lack of understanding of the fear and distrust of immigration authorities on the part of the undocumented. To institute deportation measures along with the legalization process would effectively cancel the chances for success with a legalization program.

Proposed Special Status

The legalization program as proposed by the Reagan Administration is seriously lacking in several conditions necessary to maximize the effectiveness of a legalization program. According to the Administration's plan, undocumented persons present in the U.S. prior to January 1, 1980, who are not otherwise excludable, could apply for the new status of "renewable term temporary resident". This status would have to be renewed every three years for a total of ten years of continuous residence, and after ten years a person would be eligible to apply for permanent residence status if he/she were not otherwise excludable, but must also demonstrate English language ability. These temporary residents would pay Social Security,

income and other taxes, but would be ineligible for welfare, federally assisted housing, food stamps or unemployment compensation. An extremely insensitive provision would prohibit persons from bringing in members of their immediate families.

The National Council of La Raza views this legalization proposal as an extremely cumbersome one which is inherently impractical and very costly to administer, and further subjects the undocumented population to subclass status void of basic civil or human rights. It provides minimal incentive for undocumented persons to come forward and register for the program, and because of their fear of the INS they would view the program with deep suspicion. It is not at all certain what would happen to persons who were ineligible. This plan also goes counter to the stated goal within U.S. immigration policy of reunification of the family by keeping immediate family members apart. Finally, the fact that people would be paying into a system in which they could not secure any benefits in effect sanctions the subclass existence of a large number of people.

The Administration's proposals for legalization and those of the Select Commission differ significantly regarding the time required for legalization. While the Administration's plan would create a ten-year probationary period before eligibility for permanent residency, the Commission recommended immediate adjustment to permanent residency status for those eligible under legalization. The National Council of La Raza considers this imposition of probation under the Administration's plan to be totally unjustifiable; the undocumented population has been a victim of conflicting policies of the past, a situation which present legislation is attempting to correct. The nation has welcomed and encouraged undocumenteds as low-cost labor, while denying them basic civil rights protections. Also, a key assumption for legalization is the desire to take a single action now to put this particular aspect of the problem behind us. By making the process cumbersome, lengthy, and unattractive, we may doom to failure the entire effort.

Role of Voluntary Community Groups

The second major difference between the Commission and the Administration plans is that unlike the recommendation by the Select Commission, the Administration's plan does not provide a role for community and volunteer organizations. NCLR strongly recommends the utilization of community-based and volunteer organizations in the implementation of the legalization program to assist the INS in reaching out to the undocumented population and assisting in the processing of individuals. The INS' present outreach program utilizes a network of VOLAGS (volun-

tary agencies), community and other voluntary organizations, in providing services to undocumented persons, and this network has a good record. Moreover, organizations such as the NCLR network could play a tremendous role in the program. The Council includes for example, more than 120 affiliated Hispanic community-based organizations in 23 states, Washington, D.C., and Puerto Rico. Our network provides programmatic and outreach services reaching into Hispanic communities throughout the country, and this network would be invaluable to implementation and maximizing participation under the program. By using Hispanic organizations, volunteer groups, and religious groups, INS can do a great deal to erase the fear and suspicion of the program among the undocumented. Moreover, use of community groups will provide significant additional personnel resources for the legalization effort, at a far lower cost than major staff increases at INS.

INS Capacity for Implementation

There are two other issues which need to be taken into consideration in enacting a legalization program. The first involves the management capacity of the INS to respond to the extensive duties and responsibilities which it will assume under legalization, and the second regards the timing of and synchronization of legalization with other measures to be incorporated into a comprehensive strategy or plan of action.

Regarding the first issue, there is every reason to question the ability of the INS to take on responsibilies under the legalization program given its current state-of-affairs. Specifically, will INS be able to manage files and the paperwork which will be generated under the legalization program? Given its history of archaic operations and lack of resources, and current federal budget projections, we are very skeptical that this agency will be able to discharge its duties under legalization.

A related issue is the concern over the INS dual function of enforcer and service provider. How will INS simultaneously meet its enforcement responsibilities and the requirements for implementation of the legalization program along with continuing administration of legal immigration processing? A means must be found of assuring efficient and sympathetic outreach and processing of those seeking legalization, or the entire program will be doomed to failure. Given prior experience of the Hispanic community with the INS, the Council questions the ability of the INS to change priorities and policies as needed for this effort, and sees a need for improvement measures be instituted for professional responsibility and accountability and improvement of relations with the community.

Relation to Comprehensive Immigration Strategy

On the issue of the timing of the implementation of the legalization plan, the National Council of La Raza believes that this must be implemented as an integral part of a comprehensive immigration policy. It should not be a subsequent action to other measures. The most important reason for immediate implementation of legalization is the interest in reaching as many of the undocumented as possible, to come forward and register. As mentioned earlier, increasing deportation proceedings before or during the implementation of the legalization program would have the effect of keeping the undocumented underground. Any perceptible increase in interior enforcement operations such as neighborhood sweeps would, without a doubt, completely undermine the legalization program. This is not to say that enforcement measures are precluded by the legalization proposal. In fact, these measures could be implemented concurrently. For example, increasing enforcement activities at key points of entry into the country should not negatively affect the legalization program if the two actions are implemented at the same time. On the other hand if enforcement efforts were increased and INS began deporting people before implementing a legalization program, a direct increase in the level of fear and suspicion of the undocumented would severely reduce the impact of the legalization effort when implemented. There appears to be agreement that a successful legalization program requires some time for an education campaign which would be geared towards "spreading the word" to the undocumented about the program, and more important, working towards dispelling that fear and suspicion. In any event, the legalization program should be simple in design, with an adequate period of time to assure its effectiveness. The Select Commission recommended a streamlined and simple process for legalization, and the Council supports this recommendation.

NCLR Recommendations

Based upon the above outlined Hispanic concerns about legalization as one measure in an overall package of immigration proposals, the National Council of La Raza presents the following recommendations for the design of a just and effective legalization program as part of a comprehensive immigration program.

- NCLR recommends granting permanent resident status to all undocumented persons residing in the U.S. prior to January 1, 1980. Eligibility criteria should include non-exclusionary status pursuant to the INA and continued residence in this country based upon substantial connection criteria which include such items as family ties to persons in this country, employment history, and equity, as in onwership of real property.

- NCLR recommends for the residual group of persons who entered the

country since January 1, 1980, but before enactment of this legislation and therefore are ineligible for legalization, that a contingency status be accorded them.

Based on their registration in the program, they should be permitted to continue to lead productive lives in this country and work towards pursuing an adjustment to permanent resident status in the near future if not otherwise excludable. This residual group should not be the target for deportation and repatriation efforts.

- NCLR recommends permitting those eligible for legalization to apply immediately for permanent resident alien status, and strongly opposes any temporary status involving years during which individuals are denied basic services and treated as a subclass.

- NCLR recommends that the legalization program be constructed according to the goal of reunification of families, meaning that eligible undocumented persons be permitted to petition for permanent resident status for members of their immediate family. Failure to include such a provision will make the legalization effort meaningless for the majority of eligible persons.

- NCLR further recommends within a legalization plan a strong role for community-based and other voluntary organizations to assist INS in providing outreach and counseling services and other assistance in legalization to the undocumented population, in a concentrated program of community education and participation.

- NCLR recommends implementation of the legalization program as an immediate step in overall immigration reform, and strongly opposes any prior or simultaneous internal enforcement and deportation efforts, since they would lead undocumenteds to remain hidden and not to register for the legalization program, destroying its chances for success.

Conclusion

NCLR offers these recommendations understanding the need to act now, to overcome the problems associated with ineffective policy and the continuation of the status quo. We recognize the nation's need for just and effective measures to restrict and regulate future illegal entry. Yet -- as both the Select Commission and the Reagan Administration recognize -- there is a clear danger in emphasizing solely enforcement, without adequately dealing with the population already in the country. Ineffective policy will only sanction the existence of a permanent subclass of vulnerable and exploitable people, and this is both undesirable and intolerable in a democracy such as ours.

On behalf of the Council and the Hispanic communities it represents, thank you for taking our views into consideration.

Senator SIMPSON. I have a rollcall vote, so I would like to take Mr. Harpold's testimony and then I must go vote.

STATEMENT OF MICHAEL G. HARPOLD, PRESIDENT, NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. HARPOLD. I thank you, Mr. Chairman, for again recognizing the employees of the INS and for the importance you attach to our viewpoint.

The subject of amnesty is a painful one for immigration employees and unfortunately it raises some emotional responses. We have for years, of course, warned of the impending breakdown of the immigration system and to consider an amnesty, of course, to us means that the system has in fact broken down.

Nevertheless, we are very aware of the need to constructively address the immigration problem and to address the problems of people who are here in the United States, and for that reason we would like to first express a few reservations about the general amnesty. Then I would like to make a few comments about the President's proposals and then go into some recommendations which we would make in terms of legalization.

Our first concern with the concept of a general amnesty, and here I am talking about a wholesale relief for people who entered the United States before a particular date, is that we have no good way of determining in advance just how many people we are talking about, and that leads into all sorts of other side issues.

If we give immediate relief to people who have been here, 3 to 6 million people, how many people would they in turn bring into the United States in some sort of preference immigration program? We don't know that.

On the other hand, if the number of people who are going to benefit from a legalization program are comparatively small, it may be in fact wise to permit these people to bring their families into the United States because anytime when you don't permit the reunification of the family you are causing an impetus for continued illegal immigration.

Our second concern is a general amnesty would provide unintentional relief for large numbers of people we don't want in the United States. We have many qualitative restrictions for immigration into the United States and many of the people who are here in an illegal status now are people who could not qualify to legally emigrate into the United States, and the question we would raise is, does this country desire to accord these people lawful status in the United States.

Third, we are concerned about the credibility factor in giving a general amnesty. In other words, if we say we are going to wipe the slate clean now, what does this do to our credibility as far as maintaining a general immigration system? Many people have waited patiently for many years for their opportunity to enter the United States and a windfall benefit to those who have violated U.S. law discredits this country in the eyes of those who have abided by our laws. Further, it delays the right of immigration and destroys our ability in future efforts to maintain an orderly system.

Fourth, we are concerned about the phenomenal task of registering and providing documentation for three to six million people and I think the chairman is well aware of the administrative difficulties of the INS and the difficulties this would mean for us.

Now, going to the administration's proposals, we have several major concerns. Our first concern is that it would not fulfill its stated goal. Now I think we can understand the need for the legalization program if we first enforce our borders and if that legalization program is a part of an overall immigration reform. But it seems to us that the restrictions placed by the administration on their grant of amnesty are such that not many people would accept its conditions.

People who are here for a period of time now have too much to give up, particularly in the field of employment and the ability to change jobs, and the eventuality that they might be unemployed for a period of time. There is no real incentive for them to come forward.

Second, the administrative burden on the INS would be, indeed, phenomenal. Not only would we have the problem of the initial registration, but we would have the problem of policing during the period of 10-year residence here in the United States.

Finally, we are very concerned about the impact on the family reunification issue. As Immigration employees we have seen this over the years and we have talked about it before this committee in the past. And that is the pull factor on families. If we have a head of a household here, whether it be the man or the wife, and we do not permit that person to bring the spouse and minor children into the United States legally, they bring these people in illegally.

And what we have in the United States now is a very high population of family groups residing here because they cannot benefit from existing U.S. law. Now the administration's proposal to not let these people bring their families in, of course, would simply exacerbate that problem.

Now I would like to take, with your permission, just a minute to give our constructive approach.

Senator SIMPSON. Half a minute.

Mr. HARPOLD. We strongly advocate the giving of relief to the minor children and spouses of people who are here in the United States. I think that this simply must be done.

We estimate through our work that 30 to 40 percent of the illegal alien population are people who would otherwise benefit from an immigration benefit, if we would simply remove numerical restrictions from the spouses and minor children of immigrants. And this would be a very great step forward and we would recommend it for continuing immigration reform.

Finally, we would recommend a combination of section 249, which is registry, and suspension of deportation to permit the continuing adjustment of people who are here for a 7-year period to remain in the United States.

Thank you.

[The prepared statement of Michael G. Harpold follows:]

PREPARED STATEMENT OF MICHAEL G. HARPOLD

Mr. Chairman and members of the committee, I am pleased to appear before the Senate Sub-committee on Immigration and Refugee Policy and discuss the concept of legalization. Our organization, the National Immigration and Naturalization Service Council, represents all non-supervisorial I&NS employees except those assigned to Border Patrol Sectors. The state of the law we administer and enforce is of great concern to employees of the I&NS. Consequently we have devoted a substantial portion of our resources over the years to efforts to bring about better immigration laws.

Over the years I&NS employees individually and collectively have sought to make Congress and the public aware of the impending collapse of this countries system of immigration. Amnesty means that the system has in fact collapsed. For this reason amnesty is anathema to us. We realize, however, that legalization will be part of any reform package undertaken to now bring control over our immigration system. In the spirit of building a better future for ourselves as well as for those whose lives we touch we would like to first express our concerns regarding an amnesty, offer some specific comments concerning the Administration proposal, and then give the committee our own suggestions for a realistic legalization program.

OBJECTIONS TO A GENERAL AMNESTY

For over fifteen years I&NS employees have persevered in their jobs while illegal immigration grew beyond control and orderly processes for immigration broke down. Amnesty means to us that our efforts and perserverance have not been enough and perhaps even meaningless. Our warnings have gone unheeded. We have done our duty and I&NS employees now ask in what manner the nation is now going to keep faith with us? Amnesty is not a solution to our immigration problems. Without realistic changes in our laws and a real commitment to enforcement both at the port of entry and between them, amnesty can only be at best an institutionalized form of ignoring the basic problem. Ignoring the basis of the problem must necessarily beget again another amnesty.

From our experience and perspective gained from administering immigration laws we would like to share several concerns regarding the administration of a general amnesty. In this regard we are talking about the mass legalization of illegal aliens who claim arrival in the United States prior to an established date.

Our first concern is with numbers. We have no good way of deter-

mining in advance just how many people we are talking about. The figure and the nature of the population become important when we consider the secondery effects of such an amnesty. We do not know how many people will derive status from the legalization of one, three or six million aliens. While some make predictions of Malthusian proportions, proponents would resolve the problem by prohibiting amnesty recipients from filing visa petitions for a several year period. Neither course is desireable. If numbers are small with most or all family members present in the United States, the refusal to permit re-unification of at least the nuclear family group could in itself promote an undesired result. On the other hand, if the numbers are large, providing full rights to petition for family members could mean the swelling of the number of beneficiaries several fold and the inundation of the I&NS with additional paperwork.

A second concern is that an amnesty may well provide unintentional relief for large numbers of people we do not want in the United States. One of the arguments that general amnesty advocates put forth is the administrative simplicity of sweeping into legal status all who meet the simplist eligibility criteria. In this case, entry to the U.S. prior to a set date. Such a scheme though intended to benefit people with equities such as family ties and lengthy work history would also legalize in droves non-producers, primary and secondary recipients of public assistance and many others who could not normally immigrate because of qualitative restrictions. Opportuniists are even now preparing for such an amnesty.

We are also concerned by the impact of a general amnesty on the credibility of our immigration laws. Many people have patiently waited in their home countries for many years in the belief that their opportunity to immigrate will come to them in proper turn. A windfall benefit to those who have violated U.S. law discredits this country in the eyes of those who have abided by our laws, further delays their rightful turn at immigration and destroys our credibility in future efforts to maintain an orderly system.

Finally, we are concerned by the phenominal task of registering and providing documentation for three to six million people. Anything more than a simple registration would be impossible and that alone would totally consume exisiting I&NS resources for a long time.

THE ADMINISTRATION PROPOSALS

The Administration proposes a three year renewable term amnesty

for illegal aliens who entered the United States prior to January 1, 1980. At the end of ten years residence the alien could apply to become a permanent resident. If the alien then meets the qualitative requirements and can speak English the application would normally be granted. During the ten year residence, the alien may not be joined by his family and may not receive un-employment, welfare, food stamps or long term medical treatment.

We see numerous problems with this proposal. Foremost of the plans shortcomings is the fact that it would not fulfill it's stated goal. It would not clean up the problem of 3-6 million aliens residing here illegally simply because it offers no real incentive for aliens to step forward and claim it. Once registered, the alien would deprive himself of benefits he frequently is able to enjoy now despite his illegal status. While it might be argued that accompaning employer sanctions legislation would preclude an illegal alien who does not register from working, we do not believe this would be the case. First, we view the sanctions legislation as proposed by the Admin-instration as particularly ineffectual against aliens who are already here and employed. Second, given the history of previous attempts by the Congress to enact employer sanctions, such a law would inevitably grandfather illegal aliens in places of employment at the time of enactment.

Assuming however, that aliens would avail themselves of the proposed benefit, other problems ensue. The administrative burden on the I&NS would be phenominal in terms of it's records keeping requirements alone. Each individual must be documented and have a record created. Arrivals and departures from the U. S. will have to be recorded. A mechanism for review and renewal of each case every three years will have to be implemented. Policing to ensure that such individuals do not receive unemployment or public assistance would be difficult and require significant resources.

Finally, we are concerned about the proposal to prevent family members from joining the alien in the United States. We do not espouse permitting families of illegal aliens to join them here in the United States. However, it is unrealistic to expect that once having given an alien lawful status in the United States that the family is going to stay out. A major shortcoming of existing law is an unreal-istic attitude towards the family unit of aliens, spouses and minor children. This has caused a large build-up of family members already

residing illegally in the United States because of the unavailability of visa numbers for second preference applicants from over-subscribed countries. There is no wall high enough nor acceptable enforcement methods available to prevent the re-unification of a family unit. Our experience in dealing with this problem over the years convinces us that neither the Congress nor the public want family separation as a policy.

If enacted, the Administration proposal would at best continue a policy which adds significantly to illegal immigration. the smuggling of family members into the United States is already a huge and shameful problem. From our experience we estimate that 30% to 40% of the illegal alien population are illegal family groups. The Administration's proposal, prohibiting the lawful re-unification of a family will significantly escalate this problem. The social costs of a population of family groups unable or fearful to avail themselves of such institutions as schools and public health services are unquantifiable.

THERE ARE WORKABLE ALTERNATIES TO AMNESTY

I&NS employees are aware that straightening out our immigration mess will necessarily include the concept of legalization. As early as 1975, this Union adopted as part of our policy recommendations the concept of according lawful status to illegal aliens who would prospectively benefit from changes in our preference immigration system. In particular, we have recommended relief for spouses and minor children of immigrants. We publicly advocated those measures in hearings before this committee during the Fall of 1979.

We are prepared to discuss workable approaches for legalization. We insist, however, that to be meaningful legalization must be accompanied by a real commitment to border enforcement. It must also be in concert with workable immigration laws and policies. Finally, legalization must provide relief only for the deserving.

We repeat our often advocated position regarding spouses and minor children of immigrants. It simply makes no sense to keep a family apart and those who fail or refuse to address the realities of this problem should have to bear the burden of it. Legalization should first go to these but relief should not extend beyond the minor children of immigrants. To prevent reoccurence of the problem as well as reduce the incidence of fraud in this category, future law should exempt the spouses and minor children of immigrants from any numerical restrictions. It seems to us that there is a real distinction between immediate

family such as spouses and children whose physical presence is essential to the family unit and parents and adult brothers and sisters whose presence is merely desireable. We would let the latter continue to be subject to numerical restriction and insist that they wait their proper turn for immigration even in the face of a legalization program.

We are also aware of the argument for permitting persons with long standing residence to remain in the United States. It is our feeling that two existing sections of law could be reworked to provide relief for such individuals on a continuing rather than a one time basis. Section 249 of the I&N Act now permits aliens who entered the United States prior to June 30, 1948 to apply for creation of a record of lawful admission. Section 244 of the Act permits aliens who have been here over seven years and can establish exceptional hardship if deported to apply for suspension of deportation. We suggest that the combination of the two concepts to provide for lawful status after seven years residence would address the problem both now and in the future. Because of the changing nature of immigration violations towards increased fradulent use of documents we would recommend that such relief not be accorded an applicant under Section 249 who has concealed his illegal status in the United States through fraud or misrepresentation.

Finally, we would like to discuss the mechanics of applying a legalization program. In no other area of law are the rewards for fraud so great as in immigration. Residence in the United States is one of the world's most sought treasures. Those who seek to enter or remain in the United States by fraud have indeed everything to gain and literally nothing to lose. It is a lot easier and less expensive to prevent fraud or detect it at the outset than to deal with it after the fact. For this reason we urge that a legalization program be administered on the basis of an individual adjudication by an officer of the I&NS. The basis for legalization should be a recognizable principle of law such as family ties or long residence and as such, easily documentable. While any such program will initially place a large burden on the I&NS, we have had considerable experience with efforts such as the Cuban and Indo-Chinese adjustment programs, the Silva VS. Levy registration and others. The payoff for the I&NS will come through the application of sound procedures at the outset rather than simply putting off or delaying procedures until a later day. A seemingly simple administrative process can in the end cost many times

more because of fraud or err. The I&NS has been the repeated victim of such short-signtedness. In providing us with the adequate procedures and the resources to make them work the country can begin to keep faith with us.

Thank you.

Senator SIMPSON. I thank you very much. I think that you know that I am always offended when someone asks to have witnesses testifying when a Senator is not present. In fact, the rules of the Judiciary Committee, which we are revising, will provide that no testimony will be presented unless a Senator from that committee is in the Chair, except during rollcall votes.

So I don't feel too badly. I am going to leave Dick Day, our staff director and chief counsel, to begin asking some questions of you and I will go to the rollcall vote and return. So proceed.

Mr. DAY. And I don't like doing this any better than the Senator likes having me do it either. I know you didn't come here to be questioned by a staff member.

Mr. Egan, you have stated that the cost of finding and repatriating illegals would be less than the dollar and social costs to Americans in the absence of enforcement. Yet, the INS has testified before this subcommittee that even a doubling of manpower and resources for investigations and interior enforcement would not begin to effectively apprehend an undocumented population of 3.6 to 6 million or more.

In terms of social cost during the 1954 Operation Wetback Sweep, the one time in our history when massive apprehensions and deportations were authorized, there were widespread violations of the civil liberties of U.S. citizens who were permanent residents who were inadvertently repatriated to Mexico. The employers sanctions and the identifier system, if enacted, would necessarily be limited to new hires.

In the absence of a legalization program, what type of enforcement would your organization advocate to find and repatriate the large illegal population currently residing in the United States?

Mr. EGAN. Ultimately that's a question which will have to be answered by the Congress. But let me say that there is no paucity of options. One that immediately comes to mind; earlier this year Congress deemed the problem of drug trafficking into this country as serious enough to amend the Posse Comitatus Act. That is one possibility. It would free up INS to conduct the internal enforcement that they have not been able to do.

When you refer to dollar and social costs, what I allude to is the intangible costs to supplanted American eligible workers.

Mr. DAY. Organized labor, including the AFL-CIO, who will submit testimony this afternoon, have expressed their support of a legalization program because they believe that this is the only means of bringing these persons out in the open where exploitation and depression of labor standards can be addressed.

In the absence of a legalization program, how can such inequities to both foreign and domestic workers be corrected?

Mr. EGAN. That's the part of the statement I didn't finish reading. What we have found, at least as a result of the Huddle study in Houston, and we believe there ought to be more studies done in other areas of the country, but what we are finding is that a lot of these undocumenteds are not simply employed in areas where they are grossly exploited at lower, depressed wages, that indeed they are getting high salaries or salaries comparable to their American counterparts.

One of the things that Huddle found in Houston was that illegals were being exploited but not in the usual fashion with a depressed wage. What they were doing was being asked to pay a fee to a foreman in exchange for a job.

Mr. DAY. Finally, Mr. Egan, a number of employer groups, particularly in the Southwest, have maintained that the United States has never tightly enforced its immigration laws, and because it is not illegal for them to hire undocumented workers many industries have grown dependent upon this labor supply. Agricultural employers point out that the supply of U.S. migrant farmworkers declined from 400,000 in 1960 to 200,000 in 1970 and the gap has been filled by illegal workers.

They assert that an abrupt halt to this historical migration would cause irreparable harm to many businesses who now employ some U.S. workers as well and result in higher prices for the goods and services they produce. They state that a legalization program for the existing work force either through temporary or permanent status is needed to protect the economies in these regions.

What suggestions would you offer the subcommittee to address these very real concerns?

Mr. EGAN. First of all, if we are going to look at migrations of illegals from Mexico, for example, or from Haiti, I suppose, as far as people who are working in the agricultural sector, then we must recognize that if we are going to accept illegal immigration for the purpose of keeping food prices down, then we might as well recognize that these people are definitely being exploited.

Now if we can rationalize that exploitation, then I suppose it's a reasonable argument to make. But if we can't rationalize that exploitation, then it's not. If we need a temporary worker program targeted to specific industries or, because we can find people in other nations that are willing to work in the agricultural sector for lower wages than Americans might accept, then that might be justifiable. But we certainly wouldn't sanction illegal immigration simply because there was an economic necessity for it.

Mr. DAY. Thank you.

Mr. Garza, you have stated that your organization's opposition to any internal enforcement and deportation efforts which would be instituted prior or simultaneous with a legalization program. Furthermore, you recommend that all persons in the country after January 1, 1980, be granted a contingency status which would eventually qualify them for permanent-resident status.

Yet one of the objections the subcommittee has heard regarding the use of any recent date for legalization is that such a policy would actually encourage a large number of illegal migrants to come to the United States in the hopes of qualifying for eventual immigrant status.

How does your organization answer this?

Mr. GARZA. Could you repeat the question just very briefly? I didn't catch that.

Mr. DAY. You indicated that your organization is opposed to any internal enforcement and deportation efforts which would be instituted prior to, or simultaneous to, the legalization program. Also you recommend that all persons in the country after January 1, 1980, be granted what you call a contingency status to eventually qualify them for permanent-resident status.

One of the objections the subcommittee has heard regarding the use of a recent date for the legalization program was that such a policy would encourage people to come here in the hopes of——

Mr. GARZA. I admit that was a bit ambiguous in our written testimony. Let me quickly try to clarify that.

What we were trying to address there is the fact that under the legalization plans we have seen from the Reagan administration and the Select Commission, that with the cutoff date—there is going to be a residual group there, OK, of ineligible applicants for legalization between January 1, 1980, or whatever date is set, and the time of enactment of the legislation. There is going to be a group of people there.

What we are saying for these people is, No. 1, we are against the Select Commission's recommendation that they should be deported only because of the fact that deporting this population would undermine your legalization program because you won't have people surface and register for the program if their probable status will be one of deportability.

We really highlight that. It would undermine the efforts of the legalization program.

Now in terms of the contingency status, what we are trying to address there is for this ineligible pool of people between the dates, between the cutoff date and the time of the enactment of the legislation, we are saying in an investigation of their status, if it is found, for example, that these people are working, they are productive members of society, would they be granted some type of temporary-resident status allowing them to continue working for a couple of years, leading to an opportunity to become legalized and also adjust their status to permanent-resident alien if they choose to do so, if that's their goal, if that is their objective.

Mr. DAY. In your testimony you also stated the National Council strongly opposes any temporary status involving years during which individuals are denied basic services and treated as a subclass. However, you advocate the creation of this contingency status for the residual group not eligible for immediate adjustment.

Mr. GARZA. For the residual group of people who would not be eligible because of the cutoff date, what we are saying is that they should be accorded some temporary status, but with the protection of the law and have the apportunity to become legalized later.

Under our recommendation of allowing them to continue working if they have jobs, they would be accorded the right to be protected by the basic civil and human rights so that they are not exploited and, of course, to lead to the opportunity of becoming regularized under the status.

Mr. DAY. They would though, in fact, be a subclass, would they not, this contingency, this special class?

Mr. GARZA. No, sir. I don't think they would be a subclass because they would be up front. They would be identified and they would have the option of becoming fully adjusted to permanent-resident alien status.

But during that interim period they would be accorded some basic civil rights, protection in the workplace, the labor laws that we have on the books right now.

Mr. DAY. Do you see those as basic rights which would not be afforded to the people who qualified under the administration's proposal and had this temporary status for up to 10 years?

Mr. GARZA. No, the administration does not have a policy for this residual group. We don't see it the same. First of all, under the administration's proposal, you are talking about the guest-worker program. We have a lot of problems with that. I don't think there's any way of guaranteeing some basic rights and protecting these people from possible exploitation on the part of employers, for example.

Mr. DAY. I was not referring to the temporary-worker program. I was referring to the administration's legalization program, the temporary status that the people who qualify would have for up to a 10-year period.

Mr. GARZA. What we were trying to say for this group of people is that they be covered by the laws, again, for their protection.

Under the administration's plan there would be such a prolonged period of time that basically that time period wouldn't produce any type of incentive for the people to surface and become regularized.

Mr. DAY. Is it the position of your organization that participants in a legalization program should meet current exclusions, including public-charge exclusions?

Your organization recommended the legalization program be constructed according to the goal of reunification of families, meaning that eligible undocumented persons be permitted to petition for permanent-resident status for members of the immediate family.

Currently there are almost 1 million persons waiting in line to legally emigrate to this country. Most of them are families reunification cases and 380,000 are Mexican. How do you reconcile the inequity of legalizing those who entered illegally and then allowing them to bring in family members while those who went through the legal system must wait sometimes years to get visas?

Mr. GARZA. Well, my answer to that is I think that under the legalization program, if it is an effective program and we maximize participation under it, I think one of the indirect benefits it will have for that backlogged pool of people who are trying to migrate legally is that a lot of those people who are caught up in the backlog, for example, of legal immigration from Mexico, a lot of those people are already here in the country in the illegal status and pending their legal routes of trying to migrate to the country.

They are here with family members. And by doing this one-shot legalization program I think you would have the indirect benefit of taking a chunk out of that backlog that currently exists right now with INS and doing away with it.

Mr. DAY. In your statement you reiterate the importance of including legalization as one aspect of the comprehensive immigration reform package. Could you please elaborate on the enforcement elements of such a package, which is favored by the National Council?

Mr. GARZA. We have been saying all along that enforcement needs to take into consideration some other elements that have been lacking for a time. For example, we would recommend that enforcement be increased in other parts of the country—airports, seaports—and not just on the border—some internal ports of entry, and focus on a whole other chunk of the illegal population that's coming in with visas, with permission, and abusing that later on and just staying in the country.

As we know, the undocumented population is perhaps 50 percent Mexican and increasing. Only the Border Patrol, of course, may have an impact on that one segment. But there's a large half of the population that wouldn't be affected by that and we would urge that other ports of entry be enforced.

Mr. DAY. Thank you.

Mr. Harpold, to what extent do you believe the current undocumented population is comprised of persons who would have applied for legal immigration but are waiting for their visa numbers to become available? Do you believe the current preference system should be modified to address the situation? If so, how?

Mr. HARPOLD. Well, we have seen over the years—I will go back a bit in history before the 1976 revisions in the law when we had simply the one big pocket of people who emigrated from the Western Hemisphere and we had the problem of reunification of even the parents or the children of citizens which were subject to the overall hemisphere restriction.

And even going back in those days we had a terrific buildup in this country of children and spouses who could not emigrate simply because they couldn't get a visa number. And those have been with us for years. We estimate now that probably 30 or 40 percent of the people who are resident in the United States in an unlawful status are people who would be eligible to emigrate were a visa number available.

And I think that the reform has got to come by a recognition, I mean a real recognition, of family reunification, and I am talking about, now, the spouses and minor children, because I think there is a very compelling need there and it may be worthwhile for us to examine dividing that group away from, say, the brothers and sisters and adult children and parents and simply permitting their unification without a numerical restriction.

You know, we don't get rid of those people. There is no wall high enough to keep a family apart. And yet law asks us as Immigration employees to do precisely that. And we would argue that the law, in fact, should be changed.

Senator GRASSLEY. Thank you. You advocate implementing a legalization program on the basis of existing provisions of the INA, section 249, which allows those who have come in before June 30, 1948, to adjust to permanent resident status, and section 244, which allows illegal immigrants who have been here over 7 years and can show exceptional hardship to apply for suspension of deportation.

I understand that the INS now currently processes less than 1,000 of these cases per year. How could INS process millions of these cases without a total breakdown of the system?

Mr. HARPOLD. I don't think it would involve millions. As I recall, when we studied the Carter administration proposals which recommended section 249 be moved up to 1970, in other words a period of about 7 or 8 years beyond that date—that was 1978—that at that time we were talking about relief for between 400 to 500,000 aliens.

Now what I would submit is that at no time in our history has the registry date fallen so far behind. In every immigration act we've had we've had a registry provision. In other words, people who have been here for a particular number of years have been free to come in to an INS office and have been free to register their presence and get recognition of being here. It's never been this far behind.

What we are saying is we can significantly relieve a number of people who have been here a number of years and who would qualify for amnesty by moving that date up much closer to the law, 7 years, for example. And it may be worthwhile for us to examine letting the registry date trail behind the date by a set number of years—7 years, 10 years, or whatever the Congress feels is fair—so we won't have to go through this amnesty thing again. In other words, institutionalize a method for relief.

Now suspension of deportation, which is a concept that if a person is here for 7 years he can, if he shows exceptional hardship, achieve immigrant status now. The reason for the fewer than the 1,000 cases a year is because of the term "exceptional hardship." It's very restrictive.

Now it may be that we wouldn't want to, in some cases, remove that phrase, but I think in a normal case where the alien has not, say, hidden the status here by the use of fraudulent documents or misrepresentation, if a person has been here 7 or 10 years, let them adjust. If they have through other means, through criminal means or other means, concealed their status here, maybe we should still keep the suspension. But it seems to me we should examine combining those two concepts.

Senator GRASSLEY. Would you please comment on the administration's proposal to include volunteer agencies and community organizations in the legalization process?

Mr. HARPOLD. We have some concerns about this. I think that one of the problems the INS has is repeated slapdash programs, where we get a program such as the Cuban adjustment program and we bring in a lot of voluntary agencies. And they help a lot. They prepare all of the paperwork and everything.

But if we let go of too many procedures, all we are doing is putting work off until the future. This happened at the end of World War II in the displaced persons program. We simply wound up years later spending millions of dollars going back over these cases and these files and ferretting out people who should never have been admitted into that program in the first place.

And we would advocate spending a little bit more money up front and doing a better job, so that we do not have to put that work off into the future.

Now, there has been another phenomenon which I would address here, and that is we have had a number of programs where voluntary agencies have come into our office and done INS work. The Cuban adjustment program was one, the Indochinese adjustment program was another. And now we have the Haitian program and others.

Voluntary agencies are getting assistance through various sections of law to do this. But in the end the INS and the voluntary agencies are reaching into the same pot for the same dollar. And we as employees of the INS would submit that those are dollars that should rightfully go to the agency budget.

Senator GRASSLEY. What is the union's position regarding the administration's proposal to require review of legalization applications every 3 years?

Mr. HARPOLD. We have a lot of concerns about the administration's proposal. In the first place, one, we do not think it would be workable. But to review it every 3 years gives it the character of a renewable term temporary worker program.

Now, what would be the purpose of the review? It would seem the purpose of the review would be to determine whether or not the person was employed. I do not know what other purpose would be there. And it just seems if we are going to have a temporary labor program of such massive proportions we should call it a temporary labor program, and such a review would be valid.

But if it is an amnesty and if the purpose of the amnesty is to at one fell swoop relieve the agency of future work, then that end is not accomplished by having the 3- to 4-year review.

Senator GRASSLEY. Would you prefer a one-time adjustment of status to permanent resident status?

Mr. HARPOLD. We would prefer a one-time program, yes, that is true, with the provisions which I outlined, which would provide for—would try to prevent a recurrence of the program——

Senator GRASSLEY. OK. What would be your recommendation on the most workable interpretation of the term "continuous residence" as a requirement for legalization?

Mr. HARPOLD. Continuous physical presence I think has to mean just that.

Senator GRASSLEY. Let me ask staff. Is the term "continuous physical presence" the same as "continuous residence"?

What term did you use, sir?

Mr. HARPOLD. I think I can explain this a little bit.

Senator GRASSLEY. I used the term "continuous residence," and I wanted to ask staff if that is synonymous with the term you used, which I have forgotten.

Mr. HARPOLD. They may not have been exactly synonymous, but the point I would like to make is this. We have saddled ourselves in the Immigration Service with an incredible amount of work because we split hairs over what is a meaningful departure from the United States or a nonmeaningful departure or a temporary departure from the United States, or how long does the person have to be outside of the United States to be not a meaningful departure, how long to be not continuous residence, and what-not.

We spend literally thousands and sometimes millions of dollars on that type of hair-splitting proposition. And I would say if we

want to give relief to people here in the United States, then, yes, continuous physical presence, continuous residence, all should be synonymous. They mean precisely no departures.

Senator GRASSLEY. Mr. Garza?

Mr. GARZA. Yes, sir?

Senator GRASSLEY. Would you please elaborate the role which you would envision for the community and voluntary organizations? Let me continue. Are you advocating that Federal moneys be appropriated for this purpose, and if so how would these moneys be allocated in the efforts of these organizations?

Mr. GARZA. Earlier we submitted testimony on the House side saying that community groups and voluntary organizations, such as that that I represent, would be very useful in the legalization program to assist INS in their efforts, providing outreach services. And earlier we had condoned, for example, some kind of reimbursement from the Federal Government, for example, to do that.

We are not exactly wedded to that proposition. We are saying that just by the very nature of the community organizations and the voluntary groups and the role they have played before, just as the gentleman has outlined, by their very nature they should be a part of this program.

One item that popped up on the House side, Mr. Mazzoli asked me if user charges, for example, would be an appropriate mechanism, and I thought it was an interesting idea, the type of thing where the applicant pays a certain fee for the application and part of those resources would be put into the community organizations to try to reimburse some of their costs.

Something like that probably would be—we would support. It warrants further study.

But to get back to the original point, I think that without providing for some kind of a role for community organizations, we will really undermine the effectiveness of the legalization program, because you have a network of organizations out there who work in their network. There are organizations in the community where the population exists, and I would go further and say that this population, the undocumented population, would probably stand a much better chance of identifying and receiving the types of outreach efforts that could be done by the community groups as opposed to the INS, for example, because of their fear of the authorities, because of the situation that has happened historically.

And I think utilizing the community groups, Hispanic organizations for example, in going out to those people and providing those services and explaining to them what this procedure is all about, I think tremendous good will have been done in trying to mitigate those fears and maximize the program as much as possible.

Senator GRASSLEY. What about the monitoring of them? Did you answer the question in the negative about the use of Federal funds to help out, Federal moneys to help out?

Mr. GARZA. I think if there was some provision of Federal resources to the organizations I think it would be accepted, yes.

Senator GRASSLEY. But you are not necessarily advocating that?

Mr. GARZA. No, sir.

Senator GRASSLEY. Mr. Egan, in your testimony you have indicated concern for those persons who are waiting to legally immigrate

to this country. This backlog is currently 1 million, primarily family reunification cases, 380,000 of whom are Mexicans. We have received some testimony asserting that many of these persons are now in the United States illegally and would be covered under a legalization program.

Is your organization advocating that these persons be sought out and deported?

Mr. EGAN. I would have to say yes.

Senator GRASSLEY. All right. Would you favor some modification of the current family reunification preference system to enable more people to immigrate from areas where there is a high demand?

Mr. EGAN. We have limited our remarks in this statement to the subject of amnesty and legalization. It is not the only concern we have. We all feel it is necessary to adopt a binding ceiling to the number of immigrants permitted into this country across the board, and I see no reason why that could not include those people under family reunification who are now totally exempt from a quota.

I do not know if that answers your question, Senator.

Senator GRASSLEY. It does.

That is the end of my questions—no, just a moment. [Pause.]

Senator GRASSLEY. OK. Mr. Egan, you mentioned the American Legion favors modifying the posse comitatus provision with relationship to immigration enforcement as an alternate to legislation. Is it the position of your organization that it would be at all possible or even in the national interest to seal our Southwestern borders with military personnel?

Mr. EGAN. That was the question Mr. Day asked, and the way I answered it I think is as important as the way you asked that question. We have no position on that. It certainly exists as one option.

Earlier this year Congress deemed the problem of drug smuggling into this country sufficient enough to amend the Posse Comitatus Act. If the problem of illegal immigration is serious enough, that is a possibility that could be looked into more closely.

Certainly if that were an option under active consideration it would afford some degree of relief to INS in conducting internal enforcement. I only offer that as a suggestion, as an alternative, not as the position of the American Legion.

Senator GRASSLEY. All right. That is the end of our questioning. And thank you very much for your participation in this panel and your contribution to the subject of immigration reform.

We will take a 3- or 4-minute recess when the chairman will return to the committee, as he wishes to be here for the presentation of the next panel's messages.

[Recess.]

Senator SIMPSON. The next and final panel of the afternoon: Dr. John Tanton, chairman of the board of FAIR, the Federation for American Immigration Reform; Phyllis Eisen, director of public policy of the ZPG, Zero Population Growth; and Mr. Charles Keely, Center for Policy Studies, the Population Council, representing Citizens Committee for Immigration Reform. And Mr. Roberts of the AFL–CIO was unable to remain here and we will pick him up at a later time.

So if you will proceed, and recognizing the time limitations and the timer here, red meaning cease. If you will proceed as noted in the agenda. It is nice to have you here. Dr. Tanton?

STATEMENT OF DR. JOHN H. TANTON, CHAIRMAN, FEDERATION FOR AMERICAN IMMIGRATION REFORM

Mr. TANTON. Thank you, Mr. Chairman. I am pleased to be here to represent FAIR, the Federation for American Immigration Reform.

FAIR has a number of unanswered questions about amnesty. For instance, on the income side of the equation, can amnestied illegals apply for refunds on their State and Federal income taxes and other taxes? Can their dependents living in their home countries be claimed on their income tax returns? Can amnestied illegal aliens apply for the earned income tax credit, the negative income tax? If they can, then much of the supposed financial benefit from amnesty for these immigrants will disappear. I have appended to my statement a copy of an illegal's income tax return showing use of all three of these provisions.

On the expense side, we need to know whether illegal aliens can qualify for affirmative action programs. How will the system be administered? If through the courts, what are the implications for already crowded dockets? What will it cost to administer this program, and what will the cost in social services and actual cash transfer payments be once these persons are converted to legal status?

In view of these doubts, FAIR has derived some guidelines we feel should apply to any amnesty program. The first of these is caution. Admitting people is an irreversible step and we feel we should go slow and avoid the mistakes that are often made with great leaps forward.

Any amnesty must perforce be on a case-by-case basis since each beneficiary will need to pass exclusion tests be issued the papers required of any legal resident alien. The best method, in our opinion, is a case-by-case approach through an executive act of clemency or pardon, not to the courts.

Further, the burden for demonstrating eligibility for amnesty must rest with the alien, rather than the United States having the burden to prove that the alien is not eligible.

So, mindful of the need for caution and in the light of these guidelines, FAIR would recommend the following: we think that rather than amnesty we should consider a statute of limitations for offenses against immigration laws, and that the registration date of 1948 in the existing law should be moved forward and converted into a rolling registration date, in the spirit of such a statute of limitations.

We could adopt as precedent the 17-year waiting period utilized when the 1965 act set the registration date at 1948. Actually, I would see no harm in choosing the date 1968, which is when the 1965 act went into full effect, or even the date 1970 envisioned by the President's proposal, since large-scale immigration did not start until after that date.

The date of 1970 would represent a 10-year residence prior to amnesty, compared to the 17 years used in the 1965 act. We feel any period shorter than 10 years would simply encourage illegal immigration. One could ask the rhetorical question, what would happen if the statute of limitations on income tax evasion were set for just 2 years?

For hardship cases of immigrants of more recent origin, the President could establish something like a clemency board or appoint pardon attorneys in the Department of Justice to recommend grants of conditional pardon, using his power under article II, section 2 of the Constitution, which "grants reprieves and pardons for offenses against the United States."

Congress and the President could consult with the administration on this highly flexible approach.

Finally, FAIR would like to recommend that we consider a 3-year sunset clause to be applied to the new rolling registration date or the statute of limitations for immigration offenses. Three years from now, Congress would review progress toward controlling illegal immigration to determine the effect of the administration of the generous and expanded amnesty proposed here and could consider moving the date further forward if the experience at that time warranted it.

Thank you, and I would be happy to answer questions.

Senator SIMPSON. Thank you very much, doctor. We appreciate having your views very much.

[The prepared statement and submissions of Mr. Tanton follow:]

Prepared Statement of John Tanton

Mr. Chairman, members of the Subcommittee, thank you for the opportunity to appear before you today to testify for FAIR, the Federation for American Immigration Reform, on the subject of amnesty for illegal immigrants. FAIR is a national, nonprofit, membership organization. We advocate abolishing the system of illegal immigration and conforming legal immigration to the economic and demographic realities of the 1980's.

Our primary interest in the subject of amnesty is the inevitability of any amnesty's encouraging further, and increased, illegal immigration. We know that rewarding past illegal immigration with amnesty will be an incentive for future illegal immigration. The only question is whether methods and appropriations for law enforcement will be increased sufficiently to keep pace with the additional illegal immigrants who will be encouraged by amnesty.

Since the encouragement of law-breaking will be the primary result of an amensty for illegal immigrants, it must be questioned whether the rationale for amnesty is strong enough to warrant it. The Select Commission on Immigration and Refugee Policy gave five reasons for amnesty in its final report, U.S. Immigration Policy and the National Interest. I shall consider them in reverse order of their listing on page 74 of that report.

Some Commissioners believed, the report says, that the United States bore at least partial responsibility for illegal immigration because it did not have an employer sanctions law, and that therefore deportation of illegal immigrants would be an unfair penalty. I cannot accept this argument. Congress has made unauthorized entry into the United States a crime. That Congress has not made that crime impossible to commit does not make this country responsible when individuals knowingly commit it.

Amnesty was also advocated by the Commission because it would provide reliable information about the sources of illegal migration and the characteristics of illegal immigrants. If this were advanced as a serious reason for amnesty, amnesty would well deserve a Golden Fleece from Senator Proxmire. Any scholar could design a much less expensive and far-reaching research program to provide this kind of information.

The Commission argued that amnesty would aid in enforcement of U.S. immigration laws by enabling INS to target its resources on new flows of illegal immigrants. Without additional funds or manpower to administer an amnesty program, however, amnesty would be a costly drain on the resources of the INS and a distraction from its enforcement mandate, in addition to an incentive for additional illegal immigration.

The Commission argued that "no longer exploitable at the workplace because they are unwilling to avail themselves of the protection of U.S. law, legalized [amnestied illegal] aliens would no longer contribute to the depression of U.S. labor standards and wages." I am attracted by this argument. It is certainly true that exploitation is made possible by illegal status in the United States. The exploitation suffered by illegal immigrants themselves may well be ameliorated by amnesty. But the deterioration of wages and working standards for American workers is caused primarily not by the illegal status of these immigrants, but by their numbers -- by the hundreds of thousands who, coming from poor countries, are willing to accept wages and working standards below those we in the United States deem acceptable. The cure that works both for exploitation of illegal immigrants and for deterioration of standards in the United States is enforcement of Labor Department regulations and enforcement of immigration laws. If some illegal immigrants are amnestied and are no longer exploitable, others will take their place unless there is law enforcement. Amnesty alone would do nothing to improve wages or

working conditions for Americans or for new illegal immigrants.

Finally, the Commission argued that "qualified aliens would be able to contribute more to U.S. society once they came into the open. Most undocumented illegal aliens are hardworking, productive individuals who already pay taxes and contribute their labor to this country." I cannot quarrel with this argument, since at its core is the one indisputable reason for amnesty: the humanitarian one. There are individuals who contribute to American society, who have close ties to our country and to their communities, who may have citizen children or own property in the United States, and whose deportation would be a hardship for them and for us.

It is these individuals whom we wish to protect. It is their plight which causes us to consider amnesty seriously. We should not design a program so broad that it accomplishes more than this aim: that we should not needlessly hurt illegal immigrants who through the passage of time have become part of America in all except their legal status.

I would like to outline some proposals for amnesty which have been made and comment upon how well, and narrowly, they adhere to this aim.

In our current immigration law there is a provision for individual amnesty. Individuals who have built equities in the United States such as seven years continuous residence, marriage to a citizen, citizen children, ownership of property or of a business may apply for adjustment of status on the grounds that deportation from the United States would be a hardship. If it worked well, this type of amnesty would be all that we should require. Unfortunately, abuses of the law and attempts to stretch it unreasonably have made it necessary for immigration judges and the courts to interpret this section of the Immigration and Nationality Act very strictly. While we would wish for justice to be tempered with mercy in the application of this provision, it

has not been possible. There have been cases of worthy individuals who would seem to meet our strict criteria for amnesty who have been deported under this procedure.

The legalization program which has been proposed by the senior Senator from Kentucky, Walter D. Huddleston, in his Immigration and National Security Act of 1981, S. 776, improves upon current law in just this respect. Section 7 of S. 776 amends the INA to grant resident alien status to those who held continuous residence in the U.S. since January 1, 1978, who registered within six months of the full implementation of fair hiring procedures, who showed financial sponsorship similar to that required of applicants for legal immigration, and who showed both undue hardship if forced to leave the U.S. and admissibility in accordance with existing immigration laws. It is clear to me that, if a legalization program with these characteristics were instituted, few worthy illegal immigrants with close ties to the United States would be excluded from it. It also seems to me that there would be few political objections to a program this strictly limited to those for whom it is designed.

A third path to amnesty could come from a simple updating of the section of the INA which would be amended by Senator Huddleston's approach to amnesty. This section grants legal status to those illegal aliens who entered the country prior to June 30, 1984. This registration date of 1948 was set in the 1965 amendments to update the 1952 act. It retained a requirement of seventeen years of constant residence in the United States. The model for this law is a simple statute of limitations, a deadline after which one can no longer be punished for an infraction of the law. The assumption is that a lengthy period of clean living makes punishment for a long-ago crime needlessly harmful to the individual and to the society into which he has successfully integrated himself. For the statute of limitations idea to work, the period must be both lengthy -- seventeen years is not

unreasonable -- and continually advancing. In 1981, we are thirty-three years away from June 1948; a seventeen year date would advance us to 1965. The advantage of a statute of limitations concept is that it addresses solely that class of illegal immigrants for whom we feel the deepest sympathy, those who have made their permanent home in the United States. The disadvantage is that it institutes a "rolling" amnesty, a continuous amnesty, and therefore invites future illegal immigration in the hope of evading detection until the statute of limitations expires.

The fourth path to amnesty is the one most discussed today, that which has been advanced by the Select Commission. This plan foresees mass amnesty for essentially all illegal immigrants who entered the United States before a fairly recent date. Usually only the most essential categories for exclusion from the U.S. would be applied to those who requested amnesty, individual attachment to the United States of the community need not be demonstrated, and hardship incurred by voluntary departure or deportation from the United States need not be demonstrated. My impression is that the class covered by this type of mass amnesty program is needlessly broad, and that neither humanitarian goals nor the convenience of the administrative agency are served by eliminating individual consideration in favor of mass qualification. We are all concerned that amnesty not be regarded as a reward for lawbreaking. If amnesty is given to those individuals who have earned it through their growing attachment to this country and their community, it is not a reward for lawbreaking. If amnesty is given to a class on the basis of their having broken the law before January 1, 1980, then it is by its very definition a reward for that criminal act.

A fifth pattern for amnesty has been advanced by the Reagan administration. It is a two-tiered amnesty plan. Those who have lived continuously in the United States for ten years or

more (prior to January 1, 1980) would be immediately eligible for permanent resident alien status, subject to a few basic exclusions. Those who had lived in the United States for a shorter period (but still prior to January 1, 1980) would be granted a new status of "renewable term temporary resident" in which they would be allowed to remain in the United States and to be employed. They would be able to renew this status every three years, and after continuous residence of ten years in the United States they would be eligible to apply for permanent resident alien status. This two-tiered system has been proposed because of the fear that enforcement would be so efficient that illegal workers would be removed from the American workforce overnight, causing disruption in the sectors in which they are employed in great numbers. My personal opinion is that this fear is a straw man. Greatly increased, highly stepped up enforcement measures, including a fair hiring or employer sanctions system, will remove illegal immigrants from the workforce only gradually.

But if some system like the two-tiered system is considered, I would like to point out that instituting this type of amnesty and a temporary worker program at the same time is redundant. They are two solutions aimed at exactly the same hypothetical problem. If illegal immigrants are amnestied into a temporary worker program, we don't need additional temporary workers in a separate temporary worker program. If we have a separate temporary worker program, we don't need to amnesty current illegal workers into a worker program. My recommendation, if the two-tiered system were considered, would be to amnesty current illegal workers who did not qualify for permanent resident alien status into a temporary worker program which would be phased out automatically. This would ensure skittish employers that their adjustment to hiring American workers could be planned for and accomplished gradually, without disruption. And it would ensure American workers that we were not intent on forcing them to

compete with foreign labor for jobs in America, and that any temporary worker program dealt with a limited, definable population within a limited time frame. It would not introduce new workers into the United States in a temporary worker plan, and it would not, as the bracero program and European guestworker programs did, encourage these temporary workers to remain in the host country and become illegals themselves.

There are a number of other subjects which I could discuss, were we to have time today. For example, I have never yet seen a good estimate of the cost of a mass amnesty program. I would suggest that, to perform even a minimal check of the validity of amnesty claims and of the backgrounds of claimaints, a figure of several hundred dollars per amnesty applicant would not be unreasonable. If there were a million claimaints, the cost would thus be several hundred million dollars for investigations alone. I have never yet seen good estimates of the social services and governmental benefits costs for amnestied illegals. I have never yet seen good estimates of the multiplier effect on immigration of a mass amnesty. And I have not been convinced that the social service cost and the multiplier effect could be simply legislated out of existence by denying these benefits to amnestied illegals.

But the primary subject with which I would like to close is the likely success of any mass amnesty program. No other amnesty program in the world encourages us to believe that a large portion of illegal immigrants in the United States would apply for amnesty. We must not believe that we can escape large-scale enforcement efforts against the current population of illegal immigrants in the United States by declaring an amensty. Experiences of several other countries teach us that when the amnesty period is finished, most illegal immigrants will not have applied, and we shall then have to locate them and begin deportation procedures against them.

Therefore, in your consideration of amnesty proposals, I would especially caution you to resist the calls you will receive to suspend internal enforcement efforts during the amnesty period. These calls will be seductive, and they will sound reasonable. It will be argued that only by suspending enforcement will illegals trust the government enough to apply for amnesty. But I would argue that the reverse is true. The only effective incentive for an illegal immigrant to apply for amnesty is the very good chance that he will be apprehended if he does not. If we want good response to a call for amnesty, we should step up enforcement during the amnesty period. A dozen apprehensions in a neighborhood will encourage hundreds to register who would otherwise calculate that they would not need to register because they would never get caught anyway. If we suspend enforcement during an amnesty period, our chief accomplishment will be that suspension of enforcement.

Thank you again for this opportunity to testify. I look forward to answering any questions you may have.

BLACK'S LAW DICTIONARY, 5TH EDITION, 1979

Pardon. An act of grace, proceeding from the power intrusted with the execution of the laws, which exempts the individual on whom it is bestowed from the punishment the law inflicts for a crime he has committed. An act of grace from governing power which mitigates the punishment the law demands for the offense and restores the rights and privileges forfeited on account of the offense. Verneco, Inc. v. Fidelity & Cas. Co. of New York, 253 La. 721, 219 So.2d 508, 511.

The power to pardon for non-federal crimes is generally invested in state governors, while the President has the power to pardon for federal offenses (Art. II, Sec. 2, U.S.Const.).

See also Amnesty; Board of pardons; Clemency; Commutation; Condonation; Parole; Reprieve.

Distinguished from amnesty. The distinction between amnesty and pardon is one rather of philological interest than of legal importance. Knote v. U. S., 95 U.S. 149, 153, 24 L.Ed. 442, 443. This is so as to their ultimate effect, but there are incidental differences of importance. They are of different character and have different purposes. The one overlooks offense; the other remits punishment. The first is usually addressed to crimes against the sovereignty of the state, to political offenses, forgiveness being deemed more expedient for the public welfare than prosecution and punishment. The second condones infractions of the peace of the state. Amnesty is usually general, addressed to classes or even communities—a legislative act, or under legislation, constitutional or statutory—the act of the supreme magistrate. There may or may not be distinct acts of acceptance. If other rights are dependent upon it and are asserted, there is affirmative evidence of acceptance. Burdick v. U. S., 236 U.S. 79, 271, 35 S.Ct. 267, 59 L.Ed. 476. "Pardon" applies only to the individual, releases him from the punishment fixed by law for his specific offense, but does not affect the criminality of the same or similar acts when performed by other persons or repeated by the same person.

Distinguished from commutation. A pardon, to be effective, must be accepted, Burdick v. U. S., 236 U.S. 79, 35 S.Ct. 267, 268, 59 L.Ed. 476; but a commutation is merely a cessation of the exercise of sovereign authority, and does not obliterate guilt nor restore civil rights, and need not be accepted by the convict to be operative. A commutation is simply a remission of a part of the punishment, a substitution of a less penalty for the one originally imposed; while a "pardon" avoids or terminates punishment for crime. U. S. v. Commissioner of Immigration at Port of New York, C.C.A.N.Y., 5 F.2d 162, 165.

Distinguished from parole. A "pardon" releases the offender from the entire punishment prescribed for the offense, and from all the disabilities consequent on his conviction, while by a "parole" a convict is merely released before the expiration of his term, to remain subject during the remainder thereof to supervision by the public authority, and to return to imprisonment on violation of the condition of the parole.

Types of Pardons

Absolute or unconditional pardon. One which frees the criminal without any condition whatever. That which reaches both the punishment prescribed for the offense and the guilt of the offender. It obliterates in legal contemplation the offense itself. It goes no further than to restore the accused to his civil rights and remit the penalty imposed for the particular offense of which he was convicted in so far as it remains unpaid. State v. Cullen, 14 Wash.2d 105, 127 P.2d 257, 259.

Conditional pardon. One to which a condition is annexed, performance of which is necessary to the validity of the pardon. A pardon which does not become operative until the grantee has performed some specific act, or where it becomes void when some specific event transpires. One granted on the condition that it shall only endure until the voluntary doing of some act by the person pardoned, or that it shall be revoked by a subsequent act on his part, as that he shall leave the state and never return.

Executive pardon. See **Executive pardon.**

Full pardon. One freely and unconditionally absolving party from all legal consequences, direct and collateral, of crime and conviction. Warren v. State, 127 Tex.Cr.R. 71, 74 S.W.2d 1006, 1008.

General pardon. One granted to all the persons participating in a given criminal or treasonable offense (generally political), or to all offenders of a given class or against a certain statute or within certain limits of time. But "amnesty" is the more appropriate term for this. It may be express, as when a general declaration is made that all offenders of a certain class shall be pardoned, or implied, as in case of the repeal of a penal statute.

Partial pardon. That which remits only portion of punishment or absolves from only portion of legal consequences of crime. Warren v. State, 127 Tex. Cr.R. 71, 74 S.W.2d 1006, 1008.

Pardon attorney. Official of Justice Department who considers applications for federal pardons and makes recommendations for the exercise of Presidential clemency.

1040A — Department of the Treasury—Internal Revenue Service — U.S. Individual Income Tax Return — 1979

Your first name and initial (if joint return, also give spouse's name and initials) | Last name | Your social sec.

Present home address (Number and street, including apartment number, or rural route) | Spouse's social secu.

City, town or post office, State and ZIP code | Your occupation ▶ Laborer | Spouse's occupation ▶

Presidential Election Campaign Fund — Do you want $1 to go to this fund? Yes / No. If joint return, does your spouse want $1 to go to this fund? Yes / No. Note: Checking "Yes" will not increase your tax or reduce your refund.

For Privacy Act Notice, see page 14 of Instructions

Filing Status
1 — Single
2 — X — Married filing joint return (even if only one had income)
3 — Married filing separate return. Enter spouse's social security number above and full name here ▶
4 — Head of household. (See page 8 of Instructions.) If qualifying person is your unmarried child, enter child's name ▶

Check Only One Box.

Exemptions
5a — X — Yourself — 65 or over — Blind
b — X — Spouse — 65 or over — Blind
c First names of your dependent children who lived with you ▶ Gorge Juan, Maria, Concepcion, Luis & Cipriano

If more than six dependents, see page 7 of Instructions.

Enter number of boxes checked on 5a and b ▶ 2
Enter number of children listed ▶ 6

d Other dependents:

(1) Name	(2) Relationship	(3) Number of months lived in your home	(4) Did dependent have income of $1,000 or more?	(5) Did you provide more than one half of dependent's support?

Enter number of other dependents ▶
Add numbers entered in boxes above ▶ 8

6 Total number of exemptions claimed

7	Wages, salaries, tips, etc. (Attach Forms W-2. If you do not have a W-2, see page 10 of Instructions)	7	5266 54
8	Interest income (See pages 4 and 10 of Instructions)	8	
9a	Dividends (See pages 4 and 10 of Instructions) 9b Exclusion — Subtract line 9b from 9a	9c	
	Unemployment compensation. Total amount received	10b	
b	Taxable part, if any, from worksheet on page 11 of Instructions		
11	Adjusted gross income (add lines 7, 8, 9c, and 10b). If under $10,000, see page 2 of Instructions on "Earned Income Credit"	11	5266 54
12a	Credit for contributions to candidates for public office. (See page 11 of Instructions) — 12a		
	IF YOU WANT IRS TO FIGURE YOUR TAX, PLEASE STOP HERE AND SIGN BELOW.		
b	Total Federal income tax withheld (If line 7 is more than $22,900, see page 12 of Instructions) — 12b — 131 10		
c	Earned income credit (from page 2 of Instructions) — 12c — 500 00		
13	Total (add lines 12a, b, and c)	13	631 10
14a	Tax on the amount on line 11. (See Instructions for line 14a on page 12; then find your tax in the Tax Tables on pages 15–26.) — 14a — 0 00		
b	Advance earned income credit payments received (from Form W-2) — 14b		
15	Total (add lines 14a and 14b)	15	0 00
16	If line 13 is larger than line 15, enter amount to be REFUNDED TO YOU ▶	16	631 10
17	If line 15 is larger than line 13, enter BALANCE DUE. Attach check or money order for full amount payable to "Internal Revenue Service." Write your social security number on check or money order ▶	17	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature — Date — Spouse's signature (if filing jointly, BOTH must sign even if only one had income)

Paid Preparer's Information — Preparer's signature and date — Check if self-employed ▶ ☐ — Preparer's social security no.

Firm's name (or yours, if self-employed) and address — E.I. No. ▶ — ZIP code ▶

GOVERNMENT PRINTING OFFICE: 1979—O-283-370 E.I. NO. 73-0567115 — Form 1040A (1979)

ORADO INDIVIDUAL INCOME TAX RETURN

CHECK THIS BLOCK IF BOTH NAME(S) AND ADDRESS TO BE ENTERED BELOW ARE THE SAME AS ON YOUR 1978 RETURN

	FIRST NAME AND INITIAL	LAST NAME	SOCIAL SECURITY NUMBER
YOURSELF			
SPOUSE			
ADDRESS			SCHOOL DISTRICT NUMBER
ITY	STATE	ZIP CODE	COUNTY

US

ONE	①		SINGLE	③	MARRIED FILING COMBINED RETURN
	②	X	MARRIED FILING JOINT RETURN	④	MARRIED FILING ON A SEPARATE FORM

PTIONS ALL TAXPAYERS USE "YOURSELF" COLUMN. ONLY MARRIED COUPLES FILING A COMBINED RETURN SHOULD COMPLETE BOTH "YOURSELF" AND "SPOUSE" COLUMNS.

ENTER NUMBER OF EXEMPTIONS AS THEY APPLY		YOURSELF	SPOUSE
	⑤ REGULAR	⑤ 2	
	⑥ DEPENDENTS CLAIMED ON YOUR FEDERAL TAX RETURN	⑥ 6	
	⑦ TOTAL FOR FOOD SALES TAX CREDIT PURPOSES. ADD THE NUMBERS ON LINES 5 AND 6 (BOTH COLUMNS)	● ⑦ 8	
	⑧ AGE 65 OR OVER [ ] AND/OR BLIND [ ]	⑧	
	⑨ MENTALLY RETARDED DEPENDENT	⑨	
	⑩ TOTAL. ADD LINES 5, 6, 8 AND 9	⑩ 8	

COME A MARRIED COUPLE FILING A COMBINED RETURN MUST COMPLETE ALL THREE COLUMNS. ALL OTHER TAXPAYERS COMPLETE THE "YOURSELF" COLUMN ONLY.

	FEDERAL INCOME	YOURSELF	SPOUSE
⑪ WAGES, TIPS AND OTHER EMPLOYEE COMPENSATION ⑪	$	$ 5266 54	$
⑫ INTEREST INCOME ⑫			
⑬ DIVIDENDS AFTER EXCLUSION ⑬			
⑭ ADJUSTED GROSS INCOME, ADD LINES 11, 12 AND 13 ■ ⑭	$	$ 5266 54	$

CREDITS AND TAX

⑮ COLORADO INCOME TAX WITHHELD. ATTACH WITHHOLDING FORMS ● ⑮	$ 53 20	MAIL TO THE COLORADO DEPARTMENT OF REVENUE, 1375 SHERMAN ST. DENVER, COLORADO 80261
⑯ FOOD SALES TAX CREDIT FROM TABLE F ● ⑯	136 00	
⑰ PROPERTY TAX OR RENT CREDIT AND HEAT OR FUEL EXPENSE CREDIT FROM FORM 104 PTC ● ⑰		
⑱ TOTAL CREDITS. ADD LINES 15, 16 AND 17 ⑱		$ 189 20
⑲ TAX FROM THE TAX TABLE. IF THIS IS A COMBINED RETURN, SHOW TAX FOR YOURSELF $ _____ . FOR SPOUSE $ _____ TOTAL ■ ⑲	$ 0 00	
⑳ CREDIT AGAINST INCOME TAXES FOR 1978 INCOME TAX YEAR, ENTER 10% OF THE AMOUNT ON LINE 19 ● ⑳	0 00	
㉑ NET TAX. SUBTRACT THE AMOUNT ON LINE 20 FROM THE AMOUNT ON LINE 19 ㉑		$ 0 00
㉒ IF LINE 18 IS LARGER THAN LINE 21, ENTER AMOUNT COLORADO OWES YOU ㉒		$ 189 20
㉓ COLORADO NONGAME WILDLIFE PROGRAM. CHECK IF YOU WISH TO DESIGNATE ☐ $1, ☐ $5, OR ☐ $10, OR _____ (WRITE IN AMOUNT) OF YOUR TAX REFUND TO THIS PROGRAM. IF THIS IS A JOINT OR A COMBINED RETURN, CHECK IF SPOUSE WISHES TO DESIGNATE ☐ $1, ☐ $5, OR ☐ $10, OR $ _____ (WRITE IN AMOUNT) ● ㉓		$ 0 00
㉔ AMOUNT TO BE REFUNDED. LINE 22 MINUS LINE 23 ● ㉔		$ 189 20
㉕ IF LINE 21 IS LARGER THAN LINE 18, ENTER AMOUNT YOU OWE COLORADO. MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO THE COLORADO DEPARTMENT OF REVENUE ● ㉕		$

I DECLARE THIS RETURN TO BE TRUE, CORRECT AND COMPLETE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE

(Your signature) (Date)

(Spouse's signature, if this is a joint or combined return) (Date)

(Name of individual or firm preparing return) (Date)

Privacy Act Notice

The Privacy Act of 1974 says that each Federal agency that asks you for information must tell you:

a. Its legal right to ask for the information and whether the law says you must give it.

b. What major purposes the agency has in asking for it, and how it will be used.

c. What could happen if the agency does not receive it.

For the Internal Revenue Service, the law covers:

- Tax returns and any papers filed with them.
- Any questions we need to ask you so we can:

  Complete, correct, or process your return.
  Figure your tax.
  Collect tax, interest, or penalties.

Our legal right to ask for information is Internal Revenue Code sections 6001 and 6011 and their regulations. They say that you must file a return or statement with us for any tax you are liable for. Code section 6109 and its regulations say that you must show your social security number on what you file. This is so we know who you are, and can process your return and papers.

You must fill in all parts of the tax form that apply to you. But you do not have to check the boxes for the Presidential Election Campaign Fund.

We ask for tax return information to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax.

We may give the information to the Department of Justice and to other Federal agencies, as provided by law. We may also give it to States, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. And we may give it to foreign governments because of tax treaties they have with the United States.

If a return is not filed, or if we don't receive the information we ask for, the law provides that a penalty may be charged. And we may have to disallow the exemptions, exclusions, credits, deductions, or adjustments shown on the tax return. This could make the tax higher or delay any refund. Interest may also be charged.

Please keep this notice with your records. It may help you if we ask you for other information.

If you have questions about the rules for filing and giving information, please call or visit any Internal Revenue Service office.

This is the only notice we must give you to explain the Privacy Act. However, we may give you other notices if we have to examine your return or collect any tax, interest, or penalties.

1980 Earned Income Credit Table

Caution: This is Not a Tax Table

To find your earned income credit: Read down the column titled "If line 3 or 4 of the worksheet is—" and find the appropriate amount from the Earned Income Credit Worksheet on page 14. Read across to the right and find the amount of the earned income credit. Enter that amount on line 5 or 6 of the worksheet, whichever applies.

If line 3 or 4 of the worksheet is—		Your earned income credit is—	If line 3 or 4 of the worksheet is—		Your earned income credit is—	If line 3 or 4 of the worksheet is—		Your earned income credit is—	If line 3 or 4 of the worksheet is—		Your earned income credit is—	If line 3 or 4 of the worksheet is—		Your earned income credit is—
Over	But not over		Over	But not over		Over	But not over		Over	But not over		Over	But not over	
$0	$50	$3	$1,800	$1,850	$183	$3,600	$3,650	$363	$6,350	$6,400	$453	$8,150	$8,200	$228
50	100	8	1,850	1,900	188	3,650	3,700	368	6,400	6,450	447	8,200	8,250	222
100	150	13	1,900	1,950	193	3,700	3,750	373	6,450	6,500	441	8,250	8,300	216
150	200	18	1,950	2,000	198	3,750	3,800	378	6,500	6,550	434	8,300	8,350	209
200	250	23	2,000	2,050	203	3,800	3,850	383	6,550	6,600	428	8,350	8,400	203
250	300	28	2,050	2,100	208	3,850	3,900	388	6,600	6,650	422	8,400	8,450	197
300	350	33	2,100	2,150	213	3,900	3,950	393	6,650	6,700	416	8,450	8,500	191
350	400	38	2,150	2,200	218	3,950	4,000	398	6,700	6,750	409	8,500	8,550	184
400	450	43	2,200	2,250	223	4,000	4,050	403	6,750	6,800	403	8,550	8,600	178
450	500	48	2,250	2,300	228	4,050	4,100	408	6,800	6,850	397	8,600	8,650	172
500	550	53	2,300	2,350	233	4,100	4,150	413	6,850	6,900	391	8,650	8,700	166
550	600	58	2,350	2,400	238	4,150	4,200	418	6,900	6,950	384	8,700	8,750	159
600	650	63	2,400	2,450	243	4,200	4,250	423	6,950	7,000	378	8,750	8,800	153
650	700	68	2,450	2,500	248	4,250	4,300	428	7,000	7,050	372	8,800	8,850	147
700	750	73	2,500	2,550	253	4,300	4,350	433	7,050	7,100	366	8,850	8,900	141
750	800	78	2,550	2,600	258	4,350	4,400	438	7,100	7,150	359	8,900	8,950	134
800	850	83	2,600	2,650	263	4,400	4,450	443	7,150	7,200	353	8,950	9,000	128
850	900	88	2,650	2,700	268	4,450	4,500	448	7,200	7,250	347	9,000	9,050	122
900	950	93	2,700	2,750	273	4,500	4,550	453	7,250	7,300	341	9,050	9,100	116
950	1,000	98	2,750	2,800	278	4,550	4,600	458	7,300	7,350	334	9,100	9,150	109
1,000	1,050	103	2,800	2,850	283	4,600	4,650	463	7,350	7,400	328	9,150	9,200	103
1,050	1,100	108	2,850	2,900	288	4,650	4,700	468	7,400	7,450	322	9,200	9,250	97
1,100	1,150	113	2,900	2,950	293	4,700	4,750	473	7,450	7,500	316	9,250	9,300	91
1,150	1,200	118	2,950	3,000	298	4,750	4,800	478	7,500	7,550	309	9,300	9,350	84
1,200	1,250	123	3,000	3,050	303	4,800	4,850	483	7,550	7,600	303	9,350	9,400	78
1,250	1,300	128	3,050	3,100	308	4,850	4,900	488	7,600	7,650	297	9,400	9,450	72
1,300	1,350	133	3,100	3,150	313	4,900	4,950	493	7,650	7,700	291	9,450	9,500	66
1,350	1,400	138	3,150	3,200	318	4,950	5,000	498	7,700	7,750	284	9,500	9,550	59
1,400	1,450	143	3,200	3,250	323	5,000	6,000	500	7,750	7,800	278	9,550	9,600	53
1,450	1,500	148	3,250	3,300	328	6,000	6,050	497	7,800	7,850	272	9,600	9,650	47
1,500	1,550	153	3,300	3,350	333	6,050	6,100	491	7,850	7,900	266	9,650	9,700	41
1,550	1,600	158	3,350	3,400	338	6,100	6,150	484	7,900	7,950	259	9,700	9,750	34
1,600	1,650	163	3,400	3,450	343	6,150	6,200	478	7,950	8,000	253	9,750	9,800	28
1,650	1,700	168	3,450	3,500	348	6,200	6,250	472	8,000	8,050	247	9,800	9,850	22
1,700	1,750	173	3,500	3,550	353	6,250	6,300	466	8,050	8,100	241	9,850	9,900	16
1,750	1,800	178	3,550	3,600	358	6,300	6,350	459	8,100	8,150	234	9,900	9,950	9
												9,950	9,999	3

To see if you can take the Earned Income Credit, complete Form 1040 through line 31, and answer the questions below.

	Yes	No
1. Is the amount you listed on Form 1040, line 31, less than $10,000?	☐	☐
2. Did you receive any wages, salaries, tips, or other earned income (see "What is Earned Income?" on page 13)?	☐	☐
3. Did you have a child (see note 1 below) who lived with you in the same principal residence in the U.S. during all of 1980?	☐	☐
4. If you checked Filing Status box 2 or box 5 on Form 1040, did you claim your child as a dependent on Form 1040, line 6c? **OR** If you checked Filing Status box 4 on Form 1040 and your child was married for 1980, did you claim that child as a dependent on Form 1040, line 6c? **OR** If you checked Filing Status box 4 on Form 1040 and your child was unmarried for 1980, did you enter that child's name on Form 1040, line 4 (or 6c if you claimed that child as a dependent)?	☐	☐

*Note 1—For this purpose, the word child means:

- Your son or daughter,
- Your stepchild, adopted child, or a child placed with you by an authorized placement agency for legal adoption (even if the child became your stepchild or adopted child, or was placed with you, during the year).
- Any other child whom you cared for as your own child for the whole year, unless the child's natural or adoptive parents provided more than half of the support for that year.

If you answered NO to any question, you can't take the earned income credit. Do not fill in the worksheet. Instead write "NO" on line 57 of Form 1040.

If you answered YES to all the questions, you may be able to take the credit. Use the Earned Income Credit Worksheet to figure the amount of any credit.

*Note 2: If you expect to answer YES to all of the above questions for 1981 and want to receive advance payments of the credit, file Form W-5 with your employer.

arned Income Credit Worksheet

To figure your credit, follow the instructions below.

1. Enter the amount from Form 1040, line 8, plus any other compensation from your employer, regardless of whether it is taxable. Include disability pensions but do not include other pensions or annuities.	$	
2. If you were self-employed, enter the amount, even if a loss, from Schedule SE, line 13. (If you have self-employment income that you reported on line 1 above, do not include it here.)		
3. **Earned income.** Add lines 1 and 2. However, if line 2 is a loss, subtract line 2 from line 1. If the amount on line 3 is $0 or less, do not complete the rest of this worksheet; you cannot take the credit. If it is more than zero, complete 4 and either 5 or 6 below.		
4. Adjusted gross income. Enter the amount from Form 1040, line 31.		
5. If line 4 above is $6,000 or less, use the amount from line 3 above to find your credit in the table on page 43. Enter the credit here and on Form 1040, line 57.		
6. If line 4 above is over $6,000: a. First find the amount from line 3 above in the table on page 43 and enter the credit for that amount here. $ b. Then find the amount from line 4 in the table and enter the credit for that amount here. $ c. Enter the amount from line 6a or 6b, whichever is smaller, here and on Form 1040, line 57.	$	

Do NOT file this worksheet with your return—Keep it for your tax records.

Page 14

Earned income does not include items such as interest, dividends, social security payments, welfare benefits, veterans' benefits, workmen's compensation or unemployment compensation (insurance).

Who Can't Take the Earned Income Credit?

You can't take the credit if:

- your income is $10,000 or more; or
- you are single (Filing Status Box 1); or
- you are married filing a separate return (Filing Status Box 3); or
- you are entitled to file Form 2555 to exclude income earned overseas or claim excess foreign living expenses; or
- you are entitled to file Form 4563 to exclude income earned from sources in U.S. possessions.

If you can take the credit, enter on line 57 the credit from line 5 or line 6c of this worksheet, whichever applies.

If you want IRS to figure the credit for you, see IRS Will Figure Your Tax and Some of Your Credits on pages 3 and 4.

Line 58

Amount Paid with Form 4868 (Extension of Time to File)

If you filed Form 4868 to get an extension of time to file Form 1040, enter the amount you paid with Form 4868.

Line 59

Excess FICA and RRTA Tax Withheld—Two or More Employers

If you had two or more employers in 1980 who together paid you more than $25,900 in wages, too much social security tax (FICA) and railroad retirement tax (RRTA) may have been withheld from your wages. If so, you may be able to take credit for it against your income tax.

If you are filing a joint return, you must figure this separately for you and your spouse.

If you are a railroad employee and you take credit, attach a statement from your employer showing the amount of employee RRTA compensation and the amount of RRTA tax withheld.

Please follow the steps below to see if you can take credit.

Step 1. Add all FICA and RRTA tax withheld (but not more than $1,587.67 for each employer).* Enter total here. $

Step 2. From Form 1040, line 51b, enter all uncollected FICA or RRTA tax on tips, if any.

Step 3. Add 1 and 2 above.

Step 4. Less. −1,587.67

Step 5. Subtract 4 from 3. Enter this amount on line 59. $

*Note: *If any one employer withheld more than $1,587.67, you should ask the employer to refund the excess to you. You cannot take credit for it on your return.*

Senator SIMPSON. Now, Phyllis Eisen, please. It is nice to see you again.

STATEMENT OF PHYLLIS EISEN, DIRECTOR OF PUBLIC POLICY, ZERO POPULATION GROWTH

Ms. EISEN. Good to see you, too.

I would like to take a valuable second to tell you——

Senator SIMPSON. On your time. Wait until I reset the clock.

Ms. EISEN. No, leave it on.

Let me tell you how good it is for us immigration junkies to have you so intensely involved in this issue.

Senator SIMPSON. Immigration junkies? You phrase that very well. I have found them, yes.

Ms. EISEN. Welcome to the club.

The continuing immigration of people, legally and illegally, to the United States adds substantially to current projected population growth. Since current estimates indicate 40 to 50 percent of our growth is attributable to immigration, we are particularly interested in any proposals submitted that affect that growth, including the Reagan administration's proposals.

ZPG agrees with the administration's position that the legalization program is crucial to any immigration reform package. ZPG supports the legalization program with the establishment of a reasonable date of entry and other criteria for admission, but only in conjunction with adoption of a comprehensive package to curtail further illegal immigration.

However, ZPG considers legalization to mean immediate adjustment to permanent resident status, rather than any temporary status. ZPG believes the proposals as outlined by the administration are discriminatory, seriously undermine civil liberties, and will encourage more illegal immigration, and are unnecessarily complicated and therefore unworkable. The net result will be even worse than the status quo and will only add to population growth.

First, the plan formally creates a long-term underclass in the United States. The limbo in which illegal immigrants currently exist would be transformed into legalized limbo. In return the temporary resident, anxious to keep a clean record in order to obtain permanent status, would be even more vulnerable to exploitation and harassment than illegals are now.

These residents would not enjoy the rights or protections afforded other resident aliens. The only assurance these temporary aliens would have would be the right to work for 3 years. In our view this proposal is a backdoor guest-worker program and should be examined as such.

Second, the proposal will encourage even more illegal immigration, because families could face separations of up to 10 years. The incentives for illegal entry into the country will be very strong, recreating the very underclass the program seeks to eliminate.

The proposal is punitive as well as unrealistic. The administration is blind to reality if it believes these temporary residents will allow such a long separation from their families. This proposal also contradicts the concept of family reunification, the very cornerstone of U.S. immigration policy. It is curious that an administra-

tion that has been such a strong proponent of the family would propose such a measure.

It is also unclear how the spouses and children of these new temporary residents who are already residing in the United States would be treated under this proposal.

ZPG has the following proposals:

Every effort should be made to initiate and implement as comprehensive a package as possible that is simple, workable, humane, and accompanied by a strong set of controls for future flows. We urge a unified beginning, a fair, just legalization program, and a workable control program.

In addition, the sooner we institute a legalization program the sooner we will have the valuable information so needed for us to understand this phenomenon of illegal immigration. We cannot hope to effectively control the flow we know so little about.

ZPG agrees with the Select Commission on Immigration and Refugee Policy recommendations for the immediate adjustment of status to that of permanent resident alien for those who meet the eligibility requirements of time and other criteria.

There should not be an unduly long separation of spouses and family. Family members of the new permanent resident aliens should be immediately placed in line, in proper line with others in the preference system in a nondiscriminatory fashion.

Money should be immediately appropriated for data collection on the newly adjusted permanent resident aliens. Data should be coordinated and integrated with other agencies of the Government.

Legalization of those outside of our system who reside in the United States is an integral part of any comprehensive immigration policy. It is humane, realistic and politically essential.

These people will undoubtedly add unknown numbers to our population. No one really knows. We have all been hearing a lot of numbers bounced around today, and as Mr. Asencio said, any number goes. That concerns our organization greatly.

The tradeoff, however, will be the end of an underclass in what we like to believe is an egalitarian society and a real chance to begin to understand and control future flows. And control is in everyone's best interests, essential to maintaining a humanitarian immigration policy as well as essential to stabilizing the population in the United States. Until we control illegal immigration, we will not stop growing in this country, and for our organization that is not an acceptable option.

Thank you very much for the opportunity to testify. I will be happy to answer any questions.

Senator SIMPSON. Thank you very much.

[The prepared statement and article submitted by Ms. Eisen follow:]

PREPARED STATEMENT OF PHYLLIS EISEN

I am Phyllis Eisen, Director of Public Policy for Zero Population Growth, Inc. On behalf of ZPG, I would like to thank the Subcommittee for its invitation to present our views on the Reagan Administration legalization proposals.

ZPG is a private, non-profit citizens organization. It is supported by people around the country who believe the United States would benefit from a planned, voluntary end to its continued population growth. Our country has experienced and, in the decades ahead will continue to experience major changes in its population -- not only continued growth but also new shifts in the distribution of the population.

According to the House Select Committee on Population in 1978, these changes both influence and are influenced by federal programs to the detriment of the public well-being. Yet, the federal government has neither a policy nor the capacity to plan ahead for those changes.

There are, however, proposals currently before the U.S. Congress to remedy this situation. Only this week, Senator Mark O. Hatfield (R-Ore.) introduced S. 1771, a bill that seeks to establish a comprehensive and integrated planning approach to population growth, resources and the environment, both globally and nationally. By establishing an interagency council that has a federal focus on population policy and the necessity of attaining a balance between population resources and environment, population stabilization will be realized. The legislation also calls for adoption of a comprehensive immigration policy linked to the goal of stabilization. This legislation has the co-sponsorship of ranking and minority members of the Senate. A similar

measure, H.R. 907, was introduced in the House in January 1981 by Congressman Richard Ottinger (D-NY), and has attained twenty-seven co-sponsors.

Because immigration significantly influences the growth, the distribution, and the age structure of the U.S. population, ZPG believes it must be addressed in public planning for ongoing changes and long-term popualtion goals. Immigration, both legal and illegal, represents a complex human phenomenon affected by demographic as well as social, economic, and political factors in the United States and around the world. For that reason, ZPG advocates a comprehensive reform of immigration law that would speak to long-term population goals for the country in addition to other important concerns.

The continuing immigration of people -- legally and illegally -- into the United States adds substantially to current and projected population growth.[1] Since current estimates indicate that 40 to 50% of our growth is attributable to immigration, we are particularly interested in any proposals submitted that affect that growth. We appreciate the opportunity to comment on the Administration proposals to legalize the status of persons presently in the United States, because we understand the significant impact of immigration on population growth and because we are committed to comprehensive policy reform.

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1 Today, the American population exceeds 228 million and is growing by an additional two million or more each year. The U.S. has not reached zero population growth, nor is this likely in the next several decades -- even if we had no immigration. Natural increase -- the excess of births over deaths, as well as net immigration contribute to that two million increase. Although each American woman is bearing, on the average, fewer children than women did in the past, the total number of babies born each year is still on the rise. The high number of women born during the "baby boom" generation who are now in or entering their childbearing years is contributing to an increase in the birthrate. Last year, 3.6 million babies were born -- an increase of 4% over the year before. That's up 16% since our low-point in 1973, when 3.1 million babies were born.

THE REAGAN ADMINISTRATION LEGALIZATION PROPOSAL

This past summer, the Reagan Administration proposed an immigration and refugee package. Included in this comprehensive set of proposals was a legalization program that would allow undocumented persons present in the U.S. prior to January 1, 1980, and who are not otherwise excludable, to apply for "renewable term temporary resident" status. Persons granted this status would be required to pay social security, income and other taxes, but would not be eligible for welfare, food stamps, unemployment insurance, or federally assisted housing; nor would they be able to bring their spouses or children into the U.S. Temporary residents would have to renew their status every three years. Upon completion of a ten-year residency requirement, if they are not otherwise excludable and can demonstrate English language capability, they would be able to apply for permanent resident status.

ZPG's RESPONSE

ZPG agrees with the Administration position that a legalization program is crucial to any comprehensive immigration reform package. ZPG supports a legalization program with the establishment of a reasonable date of entry and other criteria for admission -- but only in conjunction with adoption of a comprehensive package to curtail further illegal immigration. ZPG considers legalization to mean immediate adjustment to permanent resident status rather than any temporary status.

ZPG believes that the proposals, as outlined by the Administration, are discriminatory, seriously undermine civil liberties, encourage more illegal immigration and are unnecessarily complicated and therefore unworkable. The net result will be

even worse than the status quo and will only add to our population growth.

First, this plan formally creates a long-term underclass in the United States. The limbo in which illegal immigrants currently exist would be transformed into legalized limbo. In return, the "temporary resident" anxious to keep a clean record in order to obtain permanent status, would be even more vulnerable to exploitation and harassment than illegal immigrants are now. These residents would not enjoy the rights afforded other resident aliens. The only assurance these temporary residents would have would be the right to work for three years. In our view, this proposal is a backdoor guestworker program and should be examined as such.

Second, this proposal will encourage even more illegal immigration. Because families could face separations of up to ten years, the incentives for illegal entries into the country would be very strong, recreating the very underclass that the program seeks to eliminate. The proposal is punitive and inhumane as well as unrealistic. The Administration is blind to reality if it believes that these temporary residents will allow such a long separation from their families. This proposal also contradicts the concept of family reunification -- the very cornerstone of U.S. immigration policy. It is curious that an Administration that has been such a strong proponent of the family would propose such a measure. It is also unclear how the spouses and children of these new temporary residents who are already residing in the U.S. would be treated under this proposal. What if they were unable to work? Would they be ineligible for public support if the income of the "breadwinner" was inadequate? This needs to be spelled out so that the impacts on state and local governments can be dealt with consistently and fairly.

Finally, to repeat, we believe that the Reagan legalization proposals are unnecessarily complicated, unclear and as a result unworkable. Too many questions have been left unanswered. What happens to those persons who arrived after January 1, 1980? or are otherwise excludable? Will they all be deported? Can the INS handle a three year roll-over when they cannot presently even find files of current applicants for permanent resident aliens, open their mail or answer their phones? Which documents would the temporary resident have to produce to prove that he or she was here before the cutoff date? What is to prevent mass production of counterfeit documents? What factors would make a temporary resident ineligible even after the ten years requirement? What would be the process of bringing in his or her family after the ten years? How much English language capability is enough and who will decide? How much interior enforcement will be going on, thus scaring off many who may come forward to apply? The Reagan program is unclear, cumbersome and self-defeating. We believe it is unworkable and therefore only a cosmetic approach to a serious situation. If the goal of a legalization program is to mainstream into our system those who are now outside the system, to stop exploitation at the work-place that so damages American workers, and to end the inequality of a large subclass in this country, this proposal cannot be acceptable.

ZPG's PROPOSALS

1. ZPG believes that any legalization program adopted by the government must be simple, workable, humane, of short duration and accompanied by a strong set of proposals to curtail as much future illegal immigration as possible.

2. Every effort should be made to initiate and implement a comprehensive package as

soon as possible. If we have to wait several more years for a legalization program, the number of undocumented aliens to be adjusted could double or triple -- adding unknown numbers to our present population. We urge a unified beginning: a fair, just legalization program and a workable control program. In addition, the sooner we institute a legalization program, the sooner we will have the valuable information so needed for us to understand this phenonmenon of illegal immigration. Questions could be answered such as:

* Where do these migrants come from
* Why have they come
* What kind of jobs do they hold and where are they concentrated
* What is the norm of their family size
* What are the special health care and educational needs of this population
* What is the impact on State and local governments

We cannot hope to effectively control a flow we know so little about.

3. ZPG agrees with the Select Commission on Immigration and Refugee Policy recommendation for the immediate adjustment of status to that of permanent resident alien for all those who meet the eligibility requirements of time and other criteria.

4. There should not be an unduly long separation of spouses and children. Family members of the new permanent resident aliens must be immediately placed in line with others in the preference system in a nondiscriminatory fashion.

5. Money should be immediately appropriated for data collection on the newly adjusted permanent resident aliens. Data should be coordinated and integrated with other agencies of government.

Legalization of those outside our system who reside in the United States is an integral

part of any comprehensive immigration policy. It is humane, realistic and politically essential. These people will undoubtedly add unknown numbers to our population, and that concerns our organization. The tradeoff, however will be the end of an underclass in what we like to believe is an egalitarian society and a real chance to begin to understand and control future flows. And control is in everyone's best interest -- essential to maintaining a humanitarian immigration policy as well as essential to stabilizing the population of the United States. Until we do control illegal immigration, we will never stop growing in this country. We at Zero Population Growth submit that this is an unacceptable option for this nation.

Thank you again for the opportunity to testify. I will be happy to answer any questions.

[From the Congressional Record—Senate, Oct. 26, 1981]

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATFIELD:

S. 1771. A bill to establish in the Federal Government a global foresight capability with respect to natural resources, the environment, and population; to establish a national populations policy; to establish an interagency Council on Global Resources, Environment, and Population, and for other purposes; to the Committee on Government Affairs.

GLOBAL RESOURCES, ENVIRONMENT AND POPULATION ACT OF 1981

Mr. HATFIELD. Mr. President, today I am introducing legislation designed to bring about institutional change and improve the global foresight capability of the U.S. Government. This bill requires that there be established an Interagency Council on Global Resources, Environment, and Population which would be mandated to develop a national population policy. This policy would include a declaration encouraging national population stabliization in the long term.

It is time that our country face the stark realities of geometric population growth, resource depletion, environmental degradation, and their direct link to our national security interests. It should come as no surprise that our current Government policies and capabilities to address such significant problems is grossly deficient and disjointed. This legislation provides crucial direction to our Government to begin focusing on the wide range of demographic trends and problems that affect us all. Population change has tremendous impacts on our Nation's problems involving energy conservation, hunger, education, housing, and employment. We can no longer ignore such tendencies. We must adopt the flexible policy called for in this bill to capably respond to the monumental demographic concerns that presently confront us.

Several unexpected and uncontrolled events in our history have led to resource shortages, scarcity of manufactured goods and heightened world tensions. The most prevalent illustration of such an occurrence is the post-World War II baby boom which clearly demonstrates our Government's weakness in collecting and wisely utilizing demographic data. The population bulge that ensued because of the large

number of babies born between 1948 and 1968 first crowded the maternity wards of our hospitals, then further crowded our schools and universities.

The decade of the fifties saw school enrollments jump almost 50 percent. Following graduation, this generation has flooded the job and housing markets. Some demographers are predicting the children of the baby boom will produce another bulge in numbers and our country will again be unprepared. When the baby boom generation reaches retirement age, great demands will be put on health care and retirement systems.

Another demographic pattern which has impacted our Nation has been the internal migratory shifts in our population caused by economic, political, and cultural factors. A recent illustration of this trend can be noted in the industrial towns of the northern Midwest which have depended heavily on the auto and steel industries for their very existence. The fall in the auto and steel employment has resulted in a large internal migration to the more prosperous cities in the Sun Belt where better opportunity exists for the skilled unemployed of the North.

Mr. President, you may recall that earlier this month several Senators, including myself, engaged in a colloquy here on the Senate floor in recognition of World Food Day. I raise this matter because of the direct relationship of food and hunger to the demography of our age. The hunger problem we are witnessing sharpens our understanding and defines the magnitude of geometric population expansion.

Today, 800 million people are suffering from starvation. Worldwide, 12 million people dies of starvation each year before they reach the age of 5. In Latin America, El Salvador has the highest rate of malnutrition of any nation in the hemisphere, and we have seen not only the suffering and instability which this creates, but the opening which it gives to extremist ideology. One does not have to utilize great intelligence to realize a spiraling world population has brought an exponential erosion of our finite resource base and substantial increase in human sacrifice.

As Americans, we can no longer afford to stand by and remain spectators of this calamity. We must take responsible actions and confront this dilemma head-on.

There have been several attempts on behalf of the U.S. Government to address pressing global issues during our two previous administrations. In 1975, President Ford recognized the significance of such global problems and originated an ad hoc group on population policy within the National Security Council. A more visible effort was carried out under President Carter's direction and completed in the summer of 1980. This multi-agency study was entitled: "The Global 2000 Report to the President." The follow-up document to the report, "Global Future: Time to Act," strongly recommends that a single government center is needed to insure availability of adequate demographic data to U.S. decisionmakers. Mr. President, there appeared in the February 1981 edition of Nation's Business a very eloquent article on the Global 2000 study. It was written by James J. Kilpatrick, a noted conservative journalist, and I think it accurately describes the report and corresponding issues. I ask unanimous consent that the article be printed at this point in the Record.

There being no objection, the article ordered to be printed in the Record, as follows:

THE COMING CATASTROPHE

(By James J. Kilpatrick)

Five years ago, Scribner's published an English translation of Jean Raspail's The Camp of the Saints. The novel had been well received abroad, but here in the States the liberal reviewers killed it with ridicule or with silence. The plot was intolerable to them. Raspail was predicting that somewhere around 1990 or 2000 a horde of wretched, starving have-nots would swarm like locusts upon Southern France and ravage the food, the property and the lives of the haves. This was a nightmare novel, chillingly told. Raspail's prophetic work came to mind the other day, when I finally got around to reading Global 2000. This was a report submitted to President Carter last summer by the Council on Environmental Quality and the Department of State. It is an immensely important study, staggering in its implications, and if you wonder why it has received so little attention, I can only surmise that in Washington we are inundated by reports, and at the time of publication this must have looked like merely one more report.

It is much more than that. The authors have pulled together the best projections of experts in a dozen fields—population, food production, natural resources and the like—and have compressed them into a single word: catastrophe. If we fail to heed the clear warnings of this study—if we fail to take sensible actions now—we will invite terrible consequences just two decades hence.

The population projections alone are enough to cause serious concern. By 2000, the world's population will have increased to about 6.35 billion, a gain of 55 percent over 1975. The more developed countries will increase slowly: The United States may have 248 million inhabitants, up 16 percent; Western Europe can anticipate a population of 378 million, up 10 percent. But the less developed countries will soar. By 2000, Mexico can expect a population of 131 million up 119 percent. Mexico City will be the largest city in the world, with a population of perhaps 31.6 million—three times as large as New York is today. Africa's population will double; China will go to 1.3 billion and India to 1 billion.

How are these billions of human beings to be fed? In most of Asia, and in poor areas of North Africa and the Middle East, a calamitous drop in food per capita is projected. In these areas, "the quantity of food available to the poorest groups of people will simply be insufficient to permit children to reach normal body weight and intelligence and to permit normal activity and good health in adults." The number of seriously malnourished people will roughly double, from about 600 million today to 1.3 billion two decades hence.

What these projections suggest is that the great grain and rice producing nations must redouble their efforts. An answer cannot be found in putting more land in production, because most good land already is under cultivation. Increased reliance upon fisheries could help, but "unfortunately, the world harvest of fish is expected to rise little, if at all by the year 2000."

Other concerns cry out for thoughtful attention. The world's forest resources are in deep trouble. By 2000, growing stock per capita is expected to decline 47 percent wordwide and 63 percent in less developed countries. Water supplies, already short in many areas, will get worse.

One thing leads to another: As urban sprawl continues, valuable cropland goes out of cultivation. As forested hills are denuded, erosion takes over. For want of fuel wood, millions will be forced to burn animal dung, thus robbing the soil of organic nutrients.

The authors emphasize that their projections are conservative. They do not allow for drought, or wars or agricultural pestilence. On the other hand, they do project technological developments that will enhance productivity. They do not assume breakthroughs in fusion energy or solar energy. They acknowledge the increased risk that goes with increased production of electrical energy in atomic plants, and grimly but matter-of-factly they point to the mounting problem of disposing of atomic wastes.

Yes, this is a gloom and doom report, made all the more disturbing by the constrained and dispassionate style in which the authors lay out the evidence. But it is not a report without hope. Their message, finally, is that the impending catastrophe can indeed be averted—or at least minimized—if sensible public policies are put in motion now. New methods of safe and reliable birth control must be developed. The world will need new varieties of fast-growing trees. New techniques of aquaculture and desalinization will have to be found.

Above all, a sense of urgency has to be aroused. Otherwise, our children and grandchildren may soon discover that Jean Raspail wrote not fiction, but fact.

Mr. HATFIELD. Mr. President, we should note that President Reagan has also indicated his interest in global issues and has instructed the Council on Environmental Quality to begin conferring with other Government agencies to develop a response to some of the most critical global problems. This past summer the President participated in the Ottawa Economic Summit Conference involving Canada, France, Germany, the United Kingdom, Italy, and the United States. The following statement on population was included in the official declaration of the Ottawa Summit:

Paragraph 20: We are deeply concerned about the implications of world population growth. Many developing countries are taking action to deal with that problem, in ways sensitive to human values and dignity; and to develop human resources, including technical and managerial capabilities. We recognize the importance of these issues and will place greater emphasis on international efforts in these areas.

Several academic studies have been completed which point to the need to establish national population policy. Two such efforts have been issued by the Boston College Environmental Law Center and Stanford University respectively.

Mr. President, this legislation, as I mentioned previously, establishes an Interagency Council on Global Resources, Environment and Population.

The council shall be composed of one representative from each one of 19 agencies which formulate policy on these issues. The bill calls for staffing responsibilities to be carried out by the Office of Administration within the Executive Office of the President. This council will not cost the taxpayers any additional expense and will not add to the Federal work force. In this manner, we can prudently establish the

institutional base necessary to address this vital task and not add to the Federal deficit.

Mr. President, for many years during my tenure here in the Senate I have tried to advance the notion that we are not the owners of the natural resources and treasures of this Earth, but rather its stewards, entrusted with its temporary use. We as a nation must live and act in ways that demonstrate this stewardship. The benefits to be realized—reduced human suffering and strife for future generations—will certainly be worth the cost.

I am honored to be joined in this effort by Senators Cranston, Gorton, Mathias, and Matsunaga as original cosponsors. I appreciate this support and look forward to working with many other colleagues on this legislation as well.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Global Resources, Environment, and Population Act of 1981".

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(1) "agency" shall have the same meaning provided in section 551(1) of title 5, United States Code;

(2) "Chairman" means the Chairman of the Council on Global Resources, the Environment, and Population established by section 7 of this Act;

(3) "Council" means the Council on Global Resources, the Environment, and Population established by section 7 of this Act;

(4) "global population stabilization" means the stage in the change in world population when the number of human births approximately equals the number of human deaths;

(5) "long term", when used with respect to trends or impacts means a period of twenty or more years;

(6) "national population stabilization" means the stage in the change in national population when the sum of the number of human births and the number of individuals immigrating approximately equals the sum of the number of human deaths and the number of individuals emigrating;

(7) "person" shall have the same meaning provided in section 551(2) of title 5, United States Code;

(8) "population characteristics" means the number of individuals in the population, and the fertility, mortality, immigration, emigration, internal migration, age structure, and geographic distribution of the population, and the health, education, employment, income, and natural resources needs of the population; and

(9) "short term", when used with respect to trends or impacts, means a period of less then twenty years.

FINDINGS AND POLICY

SEC. 3. (a) The Congress finds and declares that—

(1) population growth directly affects the availability of natural resources, the environment, economic development, and national security;

(2) continued unplanned changes in population characteristics affect the ability of the Nation—

(A) to fulfill the needs of the people for education, training, jobs, health care, housing, and transportation;

(B) to maintain adequate energy supplies;

(C) to conserve natural resources;

(D) to produce food and agricultural products;

(E) to protect the environment;

(F) to provide income maintenance for retired and disabled individuals, and

(G) to control Government expenditures;

(3) there are economic, social, governmental, and environmental advantages to the attainment of national population stabilization in the United States;

(4) the Federal Government has the responsibility for coordinating planning for changes in population characteristics;

(5) the Federal Government is presently unable effectively to derive internally consistent projections of long term national and global trends in population characteristics, the availability of natural resources, and environmental change, to analyze the effects of such trends on Federal policies and programs, and to consider such trends in planning and modifying Federal policies and programs appropriately; and

(6) the Federal Government must improve its capability—

(A) to coordinate research and analysis with respect to, and prepare projections of, national and global trends in population characteristics, the availability of natural resources, and environmental change, and

(B) to assess the impact of such trends on the national security and the economic well-being of the people of the United States.

(b) It is the public policy of the United States that—

(1) the Federal Government use all practicable means, including financial and technical assistance, to establish and maintain conditions which (A) promote the achievement, at the earliest possible time, of national population stabilization in the United States at a level which is consistent with the maintenance of a high standard of living and conservation of natural resources and the environment, and (B) do not cause major social or economic dislocations in the national population;

(2) the Federal Government cooperate with State and local governments and other persons to promote national populaton stabilization in the United States;

(3) the Federal Goverment encourage the nations of the world to achieve national population stabilization and a balance between population characterstics, the use of natural resources, and environmental change; and

(4) the Federal Government develop and maintain the capability—

(A) to coordinate research and analysis with respect to, and to prepare projections of, national and global trends in population characteristics, the availability of natural resources, and environmental change,

(B) to assess the impact of such trends on the Nation, and

(C) to coordinate national planning and decisionmaking based on such projections.

PURPOSES

SEC. 4. The purposes of this Act are—

(1) to provide for coordinated national planning for changes in national population characteristics;

(2) to facilitate the attainment of a balance, both nationally and, through cooperation with other nations, globally, between population characteristics, the use of natural resources, and environmental change;

(3) to encourage national population stabilization in the United States;

(4) to assure that, in the interpretation and administration of Federal laws, regulations, and policies, and the planning and administration of the programs of the Federal Government, the goal of national population stabilization and projections on national and global trends in population characteristics will be considered;

(5) to establish an interagency council to improve the capability of the Federal Government to provide the President, the agencies, and the Congress with accurate, timely, and internally consistent projections of short term and long term national and global trends in population characteristics, the availability of natural resources, and environmental change; and

(6) to assure coordination of the activities of all agencies which assess the effects of the national and global trends referred to in clause (5) on the national security and the economic well-being of the people of the United States, and on Federal, State, and local policies and programs relating to education, employment, housing, agriculture, commerce, energy, the environment, transportation, communications, and services to senior citizens.

INTERPRETATION AND ADMINISTRATION OF POLICIES, REGULATIONS, AND PUBLIC LAWS; AGENCY ACTION

SEC. 5. The Congress authorizes and directs that, to the fullest extent possible—

(1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act; and

(2) all agencies of the Federal Government shall—

(A) use reliable demographic research in planning and decisionmaking which affect national and global population characteristics, the impact of national and global population characteristics on the availability of natural resources, the environment, the security of the United States, and the attainment of national and global population stabilization;

(B) identify and develop, in consultation with the Council on Global Resources, the Environment, and Population established by section 7 of this Act, methods and procedures which will insure that national and global population characteristics and the promotion of national and global population stabilization will be considered, along with environmental, economic, natural resource, and technical considerations, in planning and decisionmaking in such agencies; and

(C) make available to State and local governments and to other persons such advice and information as may be useful for planning for changes in population characteristics and national population stabilization in the United States.

POLICY REVIEW

SEC. 6. The head of each agency shall review the statutory authority, administrative regulations, and policies and procedures of the agency for the purpose of determining whether there are any deficiencies or inconsistencies which limit or prevent compliance with the purposes, policies, and provisions of this Act. The head of each agency shall, within one year after the enactment of this Act, take such action as the head of the agency considers necessary to eliminate any such deficiencies or inconsistencies and recommend to the President such administrative actions and to the Congress such legislative actions as the head of the agency considers necessary to eliminate any such deficiencies or inconsistencies.

COUNCIL ON GLOBAL RESOURCES, THE ENVIRONMENT AND POPULATION

SEC. 7. (a) There is established a Council on Global Resources, the Environment, and Population. The Council shall be composed of the Secretaries of Agriculture, Commerce, Defense, Energy, Health and Human Services, the Interior, State, and Transportation, the Attorney General, the Director of the Office of Management and Budget, the Director of Central Intelligence, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the United States International Development Cooperation Agency, the Director of the National Science Foundation, the Assistant to the President for National Security Affairs, the Director of the Office of Policy Development of the Executive Office of the President, the Director of the Office of Science and Technology Policy of the Executive Office of the President, and the United States Trade Representative, or their designees.

(b) The Chairman of the Council on Environment Quality shall be Chairman of the Council. The Council shall elect a Vice Chairman from among its members. In the absence or disability of the Chairman, the Vice Chairman shall act as Chairman.

(c) The Chairman shall preside at all meetings of the Council. At least seven members of the Council shall constitute a quorum. Each member of the Council, including the Chairman, shall have one vote. Decisions of the Council shall be determined by a majority vote of the members present.

FUNCTIONS OF THE COUNCIL

SEC. 8. (a) The Council shall—

(1) assist and advise the President in the preparation of the National Population Change and Planning Report required by section 10 of this Act;

(2)(A) coordinate population research by agencies and complile information on the current and foreseeable trends in United States and global population characteristics and on the conditions causing such trends;

(B) analyze and interpret such information to determine the probability that such trends and conditions will limit the achievement of the policies set forth in this Act; and

(C) compile and submit to the President and Congress such studies as the Council considers appropriate to promote the achievement and implementation of the purposes of this Act and policies of this Act;

(3) review the laws regulations, programs, and activities of the Federal Government to determine the extent to which such laws, regulations, programs, and activities limit or promote the achievement and implementation of the purposes and policies of this Act, and make recommendations to the President for such administrative actions and the Congress for such legislative actions as the Council considers necessary to eliminate any provisions of such laws or regulations or to modify any such programs or activities which limit the achievement or implementation of the purposes and policies of this Act;

(4) develop and recommend to the President and the Congress a national population policy, including a national policy on immigration, which will facilitate planning for changes in population characteristics and promote national population stabilization in the United States;

(5) conduct investigations, surveys, and research, and prepare studies and analysis relating to national population characteristics and the impact of the population characteristics on the availability of natural resources, the environment, and achievement of national population stabilization;

(6) prepare and revise projections and analyses of short term and long term global trends in population characteristics, availability of natural resources, and environmental change, including the impact of such trends on the Nation, and report such projections and analyses to the President at least every two years;

(7) develop and recommend to the President policies and programs which will encourage global population stabilization at a level which is consistent with the highest possible standard of living and does not deplete the natural resources of the world or degrade the global environment; and

(8) make such recommendations with resect to matters of policy and legislation as the President or the Congress may request.

(b) In carrying out its functions under this Act, the Council shall consult with appropriate officials and representatives of State and local governments, and other persons, including persons interested in population, science, industry, health, education, agriculture, labor, conservation, social welfare, and international affairs, to obtain information, opinions, and advice without compensation or reimbursement.

ADMINISTRATIVE PROVISIONS

SEC. 9. (a) The Chairman is responsible for the executive and administrative operation of the council in carrying out the provisions of this Act. The Chairman is authorized—

(1) to use, pursuant to appropriate agreements, the services, equipment, personnel, and facilities of other agencies and of State, local, and private instrumentalities, without reimbursement therefor.

(2) to enter into agreements with the heads of such other agencies and the heads of any State, local, and private instrumentalities as may be appropriate; and

(3) to request such information, data, and reports from any agency or person as the Council may require to carry out the purposes and provisions of this Act.

(b) The head of each agency represented on the Council shall promptly furnish necessary services, equipment, personnel, and facilities to the Council.

(c) The head of each agency shall, to the extend permitted by law, provide the Council with information of the agency requested by the Council, including suggestions, estimates, and statistics.

(d) The expenses of the Council shall be paid out of appropriations available for the payment of the administrative expenses of the Executive Office of the President.

ANNUAL REPORT

SEC. 10. Within one year after the date of enactment of this Act, and annually thereafter, the President shall prepare and transmit to the Congress a National Population Change and Planning Report which shall include—

(1) the current and forseeable trends in national and global population characteristics;

(2) and evaluation of the adequacy of available natural resources for fulfilling the human and economic requirements of the United States and the world based on such current and foreseeable trends;

(3) an evaluation of the short term and long term impact which national and global trends in population characteristics, availability of natural resources, and environmental change will have on the economy and national security of the United States;

(4) a review of the effects of the laws, regulations, programs. and activities of the Federal Government and State and local governments and of the activities of other persons on population characteristics, the attainment of national and global population and stabilization, and planning for such change and stabilization; and

(5) such recommendations for legislative actions as the President considers necessary to carry out the purposes and policies of this Act.

Senator SIMPSON. Mr. Keely, please.

STATEMENT OF CHARLES KEELY, CENTER FOR POLICY STUDIES, THE POPULATION COUNCIL, REPRESENTING CITIZENS COMMITTEE FOR IMMIGRATION REFORM

Mr. KEELY. Thank you, Mr. Chairman.

My name is Charles Keely and, as you noted in the introduction, I work with the Population Council, where my research is on international migration, not only to this country but in the Middle East and more recently on the international response to refugees.

Today I am representing the Citizens Committee for Immigration Reform. The committee, as you know, is a bipartisan national organization originally formed through the leadership of Father Theodore Hesburgh, president of Notre Dame University, and a distinguished panel of cochairmen to promote a rational, just, and humane immigration and refugee policy for the United States.

The idea of an amnesty for undocumented aliens has received wide support. The issues are the timing and the scope of a regularizing program. The report of the Interagency Task Force in President Ford's Administration, the report of the Cabinet Committee chaired by former Secretary of Labor Ray Marshall early in President Carter's term, President Carter's own immigration proposals of 1977, the Report of the Select Commission in Immigration and Refugee Policy and the proposals of President Reagan himself all support the concept.

The report of the Select Commission suggested an amnesty for all undocumented persons resident as of January 1, 1980, who were resident for a period to be determined by Congress. The term of residence envisaged was, I think it is correct to say, not to be so long as to reduce the probability to near zero that undocumented people would register.

The Citizens Committee for Immigration Reform suggests, following the Select Commission's recommendation, a residency requirement of no more than 2 to 3 years. In addition, if legislation is delayed, the cutoff date should be moved forward.

For an amnesty program to be effective, Mr. Chairman, the time allotted for registration must allow for proper communication and for the inevitable process of convincing people of the good faith of the Government and the advantages of being moved out of the shadows of illegal residence.

To that end, various agencies and organizations with roots into immigrant communities, with the trust and respect of the people to be registered, should be involved. The kind of organizations I have in mind are those whose work in immigration and refugee resettlement has been the backbone of resettlement programs in this country; religious organizations whose work for immigrants and minorities has been long noted and respected; ethnic groups whose programs, representations to the Select Commission and to Congress, and participation in Federal programs on behalf of their constituencies are the hallmark of a vital democracy.

The participation of these kinds of organizations in a registration program will be vital to its success. Two lessons to be learned from similar programs in other countries are the need for an appropriate time for the registration and the participation of groups with a

history of public service and the trust and respect of the people involved.

In urging this subcommittee to follow the recommendation of the Select Commission in this matter, I must address the issue of why the proposals of the President will not only fail but lead to worse problems.

The 10-year waiting period is too long a time to realistically expect a successful registration. The added burden for the Immigration Service to establish year of residency and then to keep records of time spent in renewable term visas to meet the 10-year residency requirement creates another burden on an agency now trying to dig its way out of paper, and helped along by the immigration efficiency package introduced by the chairman and ranking minority member.

The President's amnesty proposal is a temporary worker program by another name. Whether one supports a temporary worker program or not, I do not think any responsible person denies that such a program involves risks of dropping out of the migrant stream, abuses by employers, and a long list of other problems. We should expect no less from the President's program of amnesty.

If the President's amnesty program were passed, Congress cannot be as silent as the administration as to how these problems of the President's amnesty proposal are to be addressed. There is no need for you to sow the seeds of another harvest of shame.

Last, the President's program seems to presuppose most undocumented aliens who would be eligible for renewable term visas are males, frequently single or young married men who are separated from their spouses and young children and are willing to continue a life of 11 months separation each year to qualify for a green card. Our image of the illegal migrant may be dominated by the bracero farm program of the past.

In my section of the country, the Northeast, undocumented workers are not primarily from Mexico but from the Caribbean and other parts of Latin America. Women migrate more frequently than men in Latin America.

The undocumented streams to the United States are also of long standing. You will remember that the first set of hearings on illegal migration, held after the 1965 Immigration Act, testimony filling five volumes, 1600 pages, began in the House on May 5, 1971—over a decade ago.

If we put these threads together—Caribbean and Latin American migration, high female participation rates, and even domination, in other migration streams involving them, a nonagricultural setting, and rather mature migration streams—I need not appeal to maternal instinct or be accused of sexism to note that, at least for cultural reasons, we can expect pressures from women migrants who have come to this country during that time to reunite families.

The President's program seems to me not only too harsh a test—for men and women—but invites noncompliance, fraud, and the further illegal migration for family reunification. The magnet for illegal migration is not only the workplace but is also the integrity of the immediate family unit.

In sum, I urge this subcommittee to follow the lines of the Select Commission in its report to the President and Congress. An amnes-

ty program should be straightforward, as simple to administer as possible, rely on the cooperation of groups most able to contribute to its success, and be of sufficient duration to allow it to take effect.

Senator SIMPSON. Thank you very much, Mr. Keely.

Let me ask you, doctor, if you were to choose among the various legalization systems, which one would you recommend to us?

Mr. TANTON. The one I put forth here today, and that would be to change the registration date from a fixed date that does not roll forward to one that rolls forward. In other words, I propose the concept of a statute of limitations. I think that that would give Congress, if the date were not set too near the present, some chance to see how it works and to put into place a system that will control illegal immigration. Then in 2 or 3 years Congress could re-evaluate the situation.

I think that way we could start this process. If the date were set in 1970, it would be 22 years ahead of where it is now and would allow us to get illegal immigration under control without taking the great risks that go along with a more recent date.

Senator SIMPSON. You have noted that an incentive is needed in order to make the legalization program work, and in order to establish credibility among the American people that legalization would be a one-time proposal. That incentive is enforcement. What do you suggest would be the measures to indicate that enforcement is appropriately taking place?

Mr. TANTON. We have in mind the opposite of what took place during the census, when instructions were given to curtail Immigration Service enforcement. My position is opposite to that taken earlier by the gentleman from La Raza. He said enforcement should be suspended during this time of amnesty. We think if you want people to come forward there should be some pressure applied to make them understand that they must come forward or be apprehended.

The point you have quoted there is from the testimony I submitted the other day. I wonder if I might have permission to add to the material I submitted the remarks I brought with me today.

Senator SIMPSON. Indeed, they will be made a part of the record.

If we have a registry date that goes as far back as you suggest and if we have employer sanctions as well, how do you recommend we handle the disruptions that will take place because of the employers who would then be unable to obtain the foreign workers they would require?

Mr. TANTON. We hope we can rely upon a beefed up and expanded H-2 program; that the persons who have not been here long enough to qualify for a 1970 registration date would be offered a position in an H-2 program which would have a time definite time limit on it. My idea is not that this would go on forever, but perhaps over a period of 3 or 4 years we could help ease these persons out of our economy and also address the needs of employers who have become dependent upon this particular source of labor.

Senator SIMPSON. Phyllis Eisen, if I may, if you were to choose among the various proposals for legalization, which would you recommend?

Ms. EISEN. I feel the most comfortable with the type of program described by Dr. Fuchs in his testimony earlier. I think there

should be a reasonable date set, as close to enactment as possible, of a comprehensive package, and I mean a package that includes a real commitment of resources across the board for a number of long-range goals and short-range goals; labor law reform, very targeted border enforcement, appropriate economic and population aid in the Third World, particularly from those countries of high sources of illegal immigration.

But it should be as close to that. If it is going to be a one-time program, we might as well do it right and get it over with and mainstream as many people as possible out of our system into our system.

I had a very close experience with a number of these people. I used to teach a number of undocumented domestic workers English, and many of them had children here. And I watched their fear and their refusal to take their children to get medical care, and that included polio shots and TB tests, et cetera. And it made a big impression on me.

I think it is time to end that large number of people outside of the system and bring them in. If we are going to do it, let us get as many as possible as quickly as possible. And the longer we wait, the longer the program takes to accomplish, the longer we wait for the more perfect system to be in place, that is the more people we will have to adjust.

And as a population organization, that concerns us.

Senator SIMPSON. Mr. Keely, the Select Commission recommended the implementation of legalization when effective enforcement measures have been instituted. What guidelines should be used to determine in your mind whether enforcement is in fact effective, since it is going to be very difficult to determine that by measuring a decrease in illegal populations?

Mr. KEELY. Well, really the timing is what you are asking about, when the amnesty goes in and how do we determine it is an appropriate time. What I suggest, Mr. Chairman, is that we have to push on all these fronts simultaneously.

I am faced with a problem personally right now. I had some repair work done on my house and I need to paint some of the outside, and I need to do it before the winter ends. But I cannot put the final coat on, probably, because of the work I have to do. But I can let that go until next summer.

But I do not think we can let this go until next summer or can let it go for 5 to 7 years until we get a total look at how the sanctions program is apt to go into place. So it seems to me that what we have to do is set the terms of it and the effective program.

The test is whether we think it will work. That is, the pieces are all in front of us, the sanctions program, with correct identification management, as well as resources in the Immigration Service, the amnesty program, including the possibility of the information for the targeted enforcement. When we get that program together, it seems to me we have to go with that.

You cannot let one thing slide by. It is a system and one thing will not wait. It has to be addressed totally.

Senator SIMPSON. You do not favor mass deportations. What should be done with illegal immigrants who may be eligible for the

legalization program, but who have the ill fortune to be apprehended during say the startup period of the enforcement program?

Mr. KEELY. I would say if it were the startup of the enforcement program and we had the legislation on the books about the amnesty, it would seem to me we know what the criteria for the amnesty would be and in that case we would say that person is able to be legalized and that person should be included in the program.

It is the kind of thing that would go on right now if a person is taken into custody by the Immigration Service and has access to appropriate legal counsel and finds out there is a possibility of being documented. That person should be and is allowed to be, documented. It seems to me the same situation should hold.

We should be clear in our mind what the criteria will be for legalization at the same time we begin the enforcement program.

Senator SIMPSON. I very much regret we have another rollcall vote, and it is about 3 minutes from expiring. And after this amendment on this bill, we will go right into final passage, which will mean another 20 or 30 minutes. So it is impossible for me to get back. I hate to do that, but that is the reality of this place.

So I will ask Mr. Day to conclude the hearing. There are some other questions I had wanted to ask and I will ask him to do that, and then to conclude the hearing, because this time I will not be able to get back within 15 minutes. I apologize for that.

And I thank you so much for coming and giving your testimony. It is very helpful to us.

Mr. DAY. I apologize to you all, too. If he had not said I would ask them, I would just give them to you and let you send in your answers.

Phyllis, would you like the amnesty, employer sanctions and pilot guest worker programs that the administration has proposed?

Ms. EISEN. Absolutely not. Our organization is on record as being against any kind of guestworker program. I think the linkage is really unfortunate. There are going to be again an unknown number of people who are here working or are in a stage where they might perhaps begin working, their families are here—some of them may not be working. They may be young, needing to get into the system and are outside of it. I think there would be more than an adequate number of new workers coming into society.

Second, I think in any society with an unemployment rate such as ours, with women trying to get back into the marketplace, with 40 to 50 percent minority youth unemployment, that it is simply unacceptable to talk about any kind of a guestworker program, particularly one of such small numbers as the administration has indicated.

It is a perception of usefulness rather than real usefulness. I think we need to link an amnesty program or a legalization program with a comprehensive control program that includes a wide variety of measures, with a very, very active employment program in this country for our own people.

I would not consider a guestworker program an option at all. I would like to suggest there are some other things that can be done to deal with perhaps some of the trauma that small businessmen in particular will go through who have been using undocumented labor heavily. I think tax incentives to the small businessmen to

help them mechanize, to help them turn over some of their businesses in a different way, so that they do not need to exploit labor, so that they can use American labor that has worked many, many years to get to where it is, that they will be in a position through special tax incentives to mechanize.

Mr. DAY. As an alternative to the labor subsidy, as they call the temporary worker program?

Ms. EISEN. That is right.

Mr. DAY. Dr. Keely, as a demographer, what would be the implication on the future of immigration patterns to this country as a result of the legalization program advanced by the Citizens Committee, which recommends a residence period of 2 or 3 years?

Mr. KEELY. If you mean by "the pattern"—do you mean the country of origin or the numbers involved?

Mr. DAY. I would say both.

Mr. KEELY. In terms of the numbers involved, probably the effect would be relatively minimal over the long haul. We do, in fact, have at least some people in this country who talk about possible labor shortages. But the difficulty of an amnesty program is one which we referred to earlier, and that is the redistribution costs for the medical program and for education. That really has to be addressed.

But in terms of overall numbers, in terms of the growth of population of the United States, I think we must keep a much closer policy eye on the changes in the fertility patterns of the population, the relative impact. The Bouvier study, which is widely used and clearly known to the members of this subcommittee and its stuff, it seems to me makes that very clear.

In terms of the ethnic patterns, it seems to me that the ethnic patterns have, in fact, changed. I personally see no particular problem with that. Ethnic patterns have changed in the past. The question is, in terms of this Federal Union, whether people are committed to the values of the Union, and I see no reason why persons from the countries that are coming in now, whether from this hemisphere or from Asia or a continuation of persons from Europe as in the past, will not embrace those particular political values. So I see no particular problem.

In fact, it bothers me personally when people talk about the changing ethnic composition. I find that a real source of concern about what is in the minds of people when they address that question.

The issue is, of course, always whether people will integrate. They have, they continue to. And in other countries which we do not think of as immigration countries which have larger proportions of foreign-born than in the United States, including such places as Switzerland, Germany, and France, they seem to be able to integrate their people who are of foreign birth, just as the United States has done.

I know of no one who has given a convincing argument except fear that the process will not continue when a small minority comes into a country long established, with a political and civic culture that has shown strength through the years. So I am not particularly concerned about it.

Mr. DAY. Of course, the arguments given—and I am not defending them, but are the river as opposed to an ocean to cross, and the very low naturalization rate of the Mexican immigrants who have been here long enough to become citizens.

Mr. KEELY. The same thing was said about the Italians, not the ocean but the immigration rate. But I do not think Italians are particularly seen as un-American in the United States. Some countries, for various reasons, take longer than others.

On the question of the ocean and so forth, I think we must always keep in mind the availability of people to come is a condition of possibility. What usually explains the size and direction of movements is attraction. Immigrants are like all of us. They are not stupid. If things are good, they will come if the opportunity is available. If they are not, they will not.

So it seems to me we should also keep an eye on the question of Mexican development. Mexico itself is facing the problems we face with illegal migration, and Mexico in some respects has not the worst future thinkable in the world. It has a number of problems.

But to assume that everyone in Mexico wants to come to the United States and will flood across the border whether we like it or not, it seems to me, is creating a problem in our own minds that just is not realistic.

Mr. TANTON. Would you care for a contrasting answer?

Mr. DAY. Go ahead, Doctor.

Mr. TANTON. Responding just to the numeric part of the question, Dr. Keely mentioned, correctly so, that Dr. Bouvier's study points out that changes in fertility are a far more important determinant of future population sizes in the United States than are changes in migration rate. And Dr. Keely says we should keep an eye on the fertility rate from a policy standpoint.

Unfortunately, that is about all we can do about the fertility rate, keep an eye on it. Dr. Bouvier also points out that of fertility and migration, migration is the variable that is subject to control.

And the point we would put forth is, if you look at Dr. Bouvier's figures, taking replacement numbers for fertility, the population number in the United States will stabilize in the next 50 years at 260 million people. And any net immigration must be added on top of that.

And the conclusion from all of that is that immigration is the variable that can be effective as far as future population size of the United States goes. And if we are concerned about the size of population, it is to the immigration rates we must look to influence that, rather than to the fertility rates, which frankly we do not know how to influence one way or the other.

Mr. KEELY. I would just add that perhaps because Dr. Tanton is an ophthalmologist, he focuses on the policy argument.

We have things we can do and we do them. We have tax incentives which lead to high female participation. We have day care centers. We have programs concerning contraceptive development and distribution in this country. We have access to various kinds of medical services that have an impact on the fertility of women in this country. And we take a number of steps that indirectly affect the choices people make about the sizes of their families.

And to say that we do not, to say that title 10 has nothing to do with fertility in the United States, is to simply speak foolishness.

Mr. TANTON. But "indirectly" is the operative word, and I think this is a good exchange to get this point out.

Mr. DAY. Chairman Simpson will say, Dave, you let that thing get out of hand, when he reads the transcript.

Ms. EISEN. As the only woman here, I would not dare get in the middle of this conversation.

Mr. DAY. You are in the middle. [Laughter.]

Mr. TANTON. "Indirectly" is the word. While education and job opportunities for women probably do affect fertility rates, Congress will certainly not administer for that purpose. They are all adopted for other reasons. We do not have any sort of coherent population policy in the United States, and I doubt that we will get those items clustered together and adopted by Congress for the purpose of influencing fertility.

Mr. KEELY. Well, I guess the difference between us, John, is that because they are indirect does not mean that they are ineffective. Because they are not together in a package as you and I might like them to be does not mean they are ineffective.

In fact, our fertility is well below replacement and has been for a while, and I would say it is not unconnected with actions on the part of the Federal Government, although we may not have thought of them as coordinated enough.

But in terms of the policy directions of this country and the Federal Government which would affect indirectly, but yet effectively, the population and the fertility rates in this country—and in fact, as you look back in the record, there has been a good deal of influence, not only by the Federal Government but also in terms of other things that affect private choices on the part of individuals about their fertility and family size.

Mr. DAY. Phyllis, do you think illegal aliens or some estimate of their number should be included in the census?

Ms. EISEN. I think we need to know how many people are here in this country. I think we need to know whom we have to serve, what their health care needs are, what their educational needs are and how we can best deliver those services without an incredible impact that we are seeing on the State and local level, because they clearly are the ones receiving the impact.

We have heard that in testimony after testimony. It is the hospitals and the educational systems that are receiving the burden for people who are outside our system. I think that is why a legalization program is so important to mainstream as many people as quickly and efficiently as possible into the system, and when we come to the next census we won't have to answer that question.

I don't know, however, how you count a clandestine, underground population. I think that is the difficult part to start with. You are again dealing with estimates and guesses, and I just think every effort should be made so that if the State of California said they have one number for its population and the Federal Government says no, you have another number, there is a real problem there because services have to be delivered and the Federal Government is part of some of those services that get delivered, and

water has to be apportioned and we need to know, we need to plan for people, we need to plan for all of them.

That is something ZPG has been concerned about for years.

Mr. KEELY. May I just add one thing?

Mr. DAY. Yes.

Mr. KEELY. Phyllis talked about estimates and guesses. Those are not the same things, and I would suggest that the committee, the staff be in touch with the Census Bureau, which has prepared some new work using the current population survey and the alien address reports which is being reported to a census advisory committee of the American Statistical Association on November 12.

I think that information having to do with people covered by the current population survey and some estimates of the composition by sex and age would be of use. Again, as in all of these things, no one is expecting it to be right on target down to the last individual, but some of the patterns may be extremely important information and has to do, in fact, with my testimony concerning the proportion of females involved in the undocumented population.

Ms. EISEN. Sorry.

Mr. DAY. What incentives, Phyllis, do you think are necessary to insure that the amnesty program will be successful?

Ms. EISEN. I think, first of all, a perception of control, which I believe the Reagan administration proposals are illustrative of. I think there is very little commitment of resources behind them. I think the sanctions proposal outlined by the Reagan administration is simply unworkable. I think it is not going to happen. I think it simply devises as a message of control.

We need more than a message. For a legalization program to work, people must believe it is a one-time program, that it has parameters, that it is easily understood, that it is not fearful, that there is a no-loss situation there too.

The Dutch had a system where you could, when you went in to register, if you were not eligible your papers were just torn up and it was as if you never came in. So it was a real no-loss, not fearful, situation. I think we have to encourage that because again, unlike the Canadian system that didn't work very well and the Australian system and all the others we have talked about and heard about today, we would like this one to work.

It is going to be very expensive, the Justice Department notwithstanding: the cost-benefit, how wonderful it is going to be, how inexpensive. It is going to be expensive. It will be difficult. It will take the involvement of a number of agencies. But it is a crucial thing for this country to do.

So the incentive should be as little fear as possible, as simple as possible, keep the time limitation very clearly understood, long enough for it to get a proper PR approach. It will have to be hyped through a number of local community agencies, their own people, whether they are Greek community agencies or Filipino community agencies. Their own people will have to tell them it is OK also because they are not going to believe it.

I said I have worked with many of these people. They are very, very fearful. And to expend all of our energies on this program to let it be known we are going to be doing something like this and

have the rest of the world watching us because whatever we do reverberates around the world.

We are going to have to make it work, and therefore it has got to be very clearly understood and very simple and as short as possible, too, because it is true, the longer it goes on, probably, the more people will apply who are not eligible. I have great fears about the mass of forgeries and the mass production of forged documents. I can see this as a CETA program for the Mafia or for the underground, rent receipts and all kinds of papers.

I think that is going to be a part of it and it will have to take some understanding. There will be some loss there, but again, have it, have it over with; but while we do it, do it with some dignity and do it with some cleverness and get as many people into it as possible and then have it over with.

Mr. DAY. Dr. Keely, what is your perspective on the testimony presented by the administration this morning that legalized Mexicans would probably bring in an average of four family members? What would this figure be for the rest of the undocumented population?

Mr. KEELY. I really don't know where they got the figure of four. I really don't know to what extent that would be true of the undocumented population, what proportion of the undocumented population. In fact as was mentioned here and was my understanding of the work of the Census Bureau, a large proportion of the undocumented population are now children under 15, so there may be some spouses and children resident in the United States already. That is not new people added on, so that affects the proportion of people who would be affected by this.

On the issue of four individuals, I really do not know on what basis that is made, and I really cannot comment on it. In terms of persons from other countries, our problem there is what is the relative size of the Greek, Filipino, or Dominican, and so forth, population.

We really don't know that, and we don't know a great deal about the fertility levels of all of those populations except in just giving a caution about going in and finding out the basis for that No. 4. I would say that is a question that perhaps ought to be looked at by the staff and perhaps in consultation with people who are aware of ethnic fertility patterns in the United States and who have some contact with these populations about the relationship or the presence of spouses and children.

Mr. DAY. That estimate was based upon the number of family members brought in through legal Mexican applications and applying that to the illegals.

Those are all of the questions I have.

Yes, Phyllis?

Ms. EISEN. John, do you want to go first?

Mr. TANTON. I wanted to try one point to see if there is agreement amongst the three of us here. Underlying my proposals here today is a strong hope both that Congress will pass a new law on immigration and also that they will not do as they have done in the past and just walk away from the issue.

I am hopeful there is going to be continued congressional attention to this issue, that we will be back in 2 or 3 years to look at

things and see how they are working, and be willing to adjust what I understand is the second longest title in the United States Code, just as the IRS Code is adjusted from time to time. That is why I am comfortable with setting a date like 1970 for the registration date because I am hopeful that in 1 year, 2, or 3, Congress will be back to examine how the programs are working and then make changes if they are needed.

I just wonder if my fellow panelists have a similar hope as far as congressional oversight and attention to this goes.

Ms. EISEN. It sounds good to me.

Mr. KEELY. I would also add that the Select Commission considered and lost by a narrow margin, so there was some support not only for the Congress to continue to look at this but to provide a mechanism by which it could get and continue to gather the kind of information and reporting it needs.

That was a suggestion for some sort of Immigration Council, a small group of citizens who would look at and guide a small staff. It would not be a large staff but really consumers of information from other agencies in the Government looking at the effect of the size on the labor force, on the fertility patterns, on usage of services and so forth and so on, all of those kinds of things, and bring that kind of information together for the use of the Congress and whatever administration was sitting at that point. It would seem to me that that is also an idea that is worthy of consideration.

I would add, however, to what John said that I think in fact Congress has paid a lot of attention to this, that has not been the problem, and that the issue has not been attention. It would take us days to sit down and read all of the volumes of testimony that I am sure Mr. Day has had to look at to see what has happened since 1965. It is not the problem of attention; it is a problem of leadership and doing something.

I think we do have that with both the majority and minority members in both Houses at this point, and I think that the issue has been formed. Obviously sides are being taken and people are trying to work things out. I think we have the leadership now to move. We have had 10 years of attention and no action.

Mr. DAY. Thank you very much.

I am not sure a staff member can adjourn anything, but we will be finished.

Ms. EISEN. Mr. Day, I would like to request that my full testimony be entered into the record.

Mr. DAY. Yes. The hearing is now concluded.

[Whereupon, at 4:25 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL STATEMENTS FOR THE RECORD

TESTIMONY OF
ANTONIA HERNANDEZ, ASSOCIATE COUNSEL
MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

Before the

HOUSE SUBCOMMITTEE ON IMMIGRATION,
REFUGEES, AND INTERNATINAL LAW

Washington, D. C.

October 15, 1981

My name is Antonia Hernandez. I am the Associate Counsel for the Washington, D. C. office of the Mexican American Legal Defense and Educational Fund. MALDEF is a national civil rights organization dedicated to the preservation and vindication of the civil and constitutional rights of close to 15 million Americans of Hispanic descent. Currently, we have offices in San Francisco, Los Angeles, Denver, Chicago and San Antonio. For the past several years much of our attention has been focused on immigration matters and thus we are keenly aware of the significance of the issue before the Subcommittee today.

We greatly appreciate the invitation to testify before this Subcommittee on proposals to legalize the status of persons presently in the United States illegally. MALDEF believes that a "legalization" program is indeed an essential component of any comprehensive immigration reform package. However, the legalization program contained in the Reagan Administration's Immigration proposal is, in our opinion, ineffective, inhumane, and destined to fail. Before engaging in a critique of the Reagan legalization proposal, I will outline what MALDEF believes to be the necessary ingredients of a successful legalization program.

The ultimate goal of a legalization program is to bring a large underclass of persons presently residing in the United States into the mainstream of our society. In order for this goal to be accomplished, the design of the program must be simple,

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humane, reasonable and workable. The criteria for determining eligibility must be clear-cut and the residency requirement not so long as to exclude large segments of the undocumented population. The offer to legalize status must be presented in a manner which will not discourage people from coming forward, i.e., an alien should not fear that determination of his ineligibility will result in deportation. Moreover, the program must assure that family units are not subjected to prolonged separations. Finally, if such a program is to succeed, the government must elicit the support and cooperation of church, ethnic and immigrant-serving organizations.

THE REAGAN LEGALIZATION PROPOSAL

On July 30, 1981 President Reagan proposed a comprehensive U.S. immigration and refugee policy. This plan includes a legalization program which would allow undocumented persons present in the United States prior to January 1, 1980,and who are not otherwise excludable, to apply for "renewable term temporary resident" status. Persons granted this status would be required to pay Social Security, income and other taxes, but would not be eligible for welfare, food stamps, unemployment insurance, or federally assisted housing; nor would they be able to bring their spouses or children into the United States. Temporary residents would have to renew their status every three years. Upon completion of a ten year residency requirement, if they were not otherwise excludable and could demonstrate English language capability, they could apply for permanent resident status.

MALDEF considers the Reagan legalization proposal unnecessarily complicated, restrictive, and inhumane. Because of the many uncertainties involved, we feel it will intimidate the potential beneficiaries, and thus defeat its purpose. Broadly speaking, our opposition is based on the terms of the renewable temporary resident status, the extremely long and tenuous nature of the residency requirement for permanent resident status and the failure of the Administration to provide an alternative for those who entered the country after January 30, 1980,or who cannot prove otherwise. I will amplify on each of these objections.

First, we oppose the temporary resident status created by the Reagan plan because it would place people in a state of limbo--

although they would be "legal", they would not enjoy the rights and protections afforded other resident aliens. The only assurance these temporary residents would have would be the right to work for three years. However, even this right may be illusory, since it is unclear whether such a right carries with it any assurance of equal employment opportunity. The United States Supreme Court held in the case of Espinoza v. Farah Manufacturing Company, Inc.[1] that job discrimination based on alienage was not actionable under Title VII of the Civil Rights Act of 1964.

Second, the temporary resident status undermines one of the most important principles underlying U.S. immigration policy--family reunification. The Reagan proposal clearly states that temporary residents would not be allowed to bring their spouses or children into the United States. To require these residents to sacrifice family ties for such a lengthy period is inhumane and unconscionable. Furthermore, it is unlikely that excluded family members would remain abroad. Hence, the restriction sets the stage for further illegal entry.

Another concern regarding families is that the Administration does not specify how applicants' spouses and children already residing in the U.S. would be treated under this proposal. Two potential problems come immediately to mind. First, it would be extremely difficult for many aliens to prove that their spouses and children have resided here for the requisite length of time, particularly if the spouse did not work and the children did not attend school.[2] Second, assuming that the spouse and children could prove their presence in the U.S., would they be precluded from legalizing their status if they were unable to work? Or to put it another way, would they be excluded as public charges if the income of the "breadwinner" was not considered adequate? All these factors lead us to believe that it will be difficult

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[1] 414 U.S. 86, 94 S. Ct. 334, 38 L ED, 2d 287 (1973).

[2] In Texas, undocumented children were denied free public education until Federal Courts declared that practice unconstitutional. Doe v. Plyler 458 F. Supp. 569 (E.D. Tex 1978), aff'd 628 F 2d 488 (5th Cir 1980), Cert. granted, U.S. Sup. Ct. No. 80-1538. In Re: Alien Children 501 F Supp. 544 (S.D. Tex 1980) aff'd _ F 2d _ (5th Cir. 1981) Cert granted, U.S. Sup. Ct. No. 80-1934.

for immigrant families to remain intact under the Reagan proposal.

Our third objection to the temporary resident status is that it would unfairly call upon legal residents to support our tax systems and public assistance programs but not allow them the benefits from their toil. Even the United States Supreme Court in Mathews v. Diaz, 426 U.S. 67, (1976) recognized that:

> "...the decision to share that bounty with quests may take into account the character of the relationship between the alien and this country: ...Congress may decide that as the alien's ties grows stronger, so does the strength of his claim to that munificence." 426 U.S. at 80.

Our next set of objections deal with the lengthy residence requirements for permanent resident status. One of the fundamental flaws of the Reagan legalization proposal is that a person must reside in the U.S. for a minimum of ten years in order to apply for permanent resident status, and that fulfillment of that requirement would not guarantee bestowal of such status. Many undocumented persons who today could meet the ten year requirement would not be able to produce documents to prove that fact. Moreover, the Reagan plan does not even specify what documents would serve as proof. In order for any plan to be fair, it must allow the use of documents that are reasonably accessible to the undocumented.

There are other contingencies involved in achieving permanent resident status. A person granted temporary resident status must reapply for that status every three years and can only secure it if he is "not otherwise excludable". During the course of those reviews, an alien could be classifed as excludable. And even if the temporary resident made it through the ten year waiting period, he or she could still be declared ineligible for permanent resident status. The Reagan plan fails to delineate what factor could render a person excludable, or ineligible for continued legal status. But assuming permanent status is conferred, the questions still remain whether that person would be able to bring his family into the country, how long he would have to wait to do so, and what type of financial test he would have to meet.

Another obstacle to achieving permanent resident status is the English language requirement proposed by the Reagan Plan. Such a requirement creates a double standard. Under existing immigration laws, persons applying for lawful permanent residence do not have to show English speaking capability; only those who apply for U.S. citizenship are required to pass an English test. Yet the administration proposes to treat this class of renewable term temporary residents with a harsher hand by imposing this additional requirement.

Finally, we object to the President's legalization proposal because it does not offer any form of amnesty to those undocumented persons who have either arrived in the U.S., after January 1980, or to those who lack the necessary documents to prove they had established residence here before that date. This proposal does not state how this large segment of the undocumented population would be dealt with. That the Administration remained silent on this issue leads us to believe that these people would face deportation. We strongly oppose such an approach not only because it is inhumane but because it would intimidate those intended beneficiaries.

Given the length and complexity of the entire process of legalization, many undocumented aliens would be deterred from coming forward. Their hesitancy would be amplified if increased interior enforcement accompanied the legalization program. The many obstacles posed by the plan,coupled with the undocumented's general fear and distrust of immigration officials,would condemn the program to failure. It is unrealistic to expect the undocumented population to give up their only safeguard, their anonymity, to respond to an offer which holds no assurances for them or their family.

ALTERNATIVE PROPOSALS

The next part of my discussion will deal with other approaches to a legalization program. First, I will briefly discuss MALDEF's reaction to the program recommended by the Select Commission on Immigration and Refugee Policy (SCIRP). Then I will describe the legalization program MALDEF proposes as an alternative.

Recommendation of SCIRP

Last March, SCIRP submitted its final report and recommendations

to the President and the Congress. It recommended a legalization program which was quite different from that proposed by the President. SCIRP's proposal differs from the Reagan plan in one very significant way. That is, it recommends immediate adjustment of status to that of permanent resident for all those who met the eligibility requirements. MALDEF supports the immediate adjustment to permanent resident status, although we feel that the Select Commission should have more clearly defined the eligibility requirement.

MALDEF rejects two other provisions of SCIRP's proposal because we feel they would defeat the purpose of the program. These are, one, that the program not be instituted until an increased enforcement mechanism is in place, and two, that those who come forward but fail to meet the eligibility requirements be subject to deportation. Both these provisions, whether taken independently or jointly would have a chilling effect on the targetted population and thus greatly diminish the effectiveness of a legalization program.

MALDEF believes that an increase in interior enforcement will intimidate the undocumented population from coming forward. This will particularly be true if the intended beneficiaries are not entirely certain of their eligibility. Not only will fear of immediate deportation upon failure to qualify be a factor, but if INS raids are being conducted simultaneously, additional fear of exposing their identity and whereabouts will come into play. For these reasons, we recommend against an increase of interior enforcement before or during the implementation of a legalization program.

Notwithstanding our opposition to increased interior enforcement, MALDEF does recognize the need for vigorous enforcement at the U.S. borders and ports of entry. If legalization is to be a one time program, and if we truly want to eliminate the presence of an underclass of expoloitable aliens, border enforcement is necessary. However, we cannot over-emphasize our concern that border enforcement be implemented in a fair and equitable fashion. Such enforcement must exist at <u>all</u> U.S. borders and ports of entry, not just the Mexican border. Moreover, implementation of

such controls must not be allowed to infringe upon the civil rights of Hispanics residing in, or visiting border areas. Nor should apprehended aliens be subjected to abuse. Steps must be taken to sensitize INS officers in this regard.

MALDEF's Alternative

MALDEF advocates that the opportunity to become legal residents, and eventually citizens, be extended to all those undocumented persons who are currently participating in our society and are not excludable under current immigration laws. This offer should be extended to the immediate families (spouses and children) of such aliens as well.

Recognizing that longevity of residence is a valid consideration, we understand the need for a cut-off date, as was set by the Reagan plan and other previous proposals. However, if a legalization program is to accomplish its goal, a reasonable and humane alternative must be presented to those who do not meet the residency requirement. We do not believe that deportation should be employed, as that would create fear among the targetted population and hence diminish the effectiveness of the program.

MALDEF therefore proposes the following two-tiered legalization program:

1. We recommend granting permanent resident status to all those undocumented persons whose residence in the U.S. commenced prior to a reasonably recent date, such as January 1, 1980. We further recommend that such status be granted to members of their immediate families (i.e. spouses and children).
2. We recommend that those undocumented persons who have begun their residency in the U.S. after January 1, 1980 be granted a temporary resident status with the opportunity to adjust to permanent resident status after 5 years of residing in the U.S. At such time when the temporary residents become eligible for permanent resident status, so should members of their immediate family.

In order to prevent the exploitation of the newly created class of temporary residents, certain rights and protections must

be afforded them. They must be allowed to become full members of the labor force, with the right to unionize. This would protect not only the resident, but the wages and working conditions of all other workers. Temporary residents should also be afforded the protections of our civil rights statues and should be eligible for those social programs to which they contribute through their taxes. Moreover, these temporary residents should be allowed to leave the country for at least one month per year to visit immediate family members still residing outside the United States.

We believe that our proposal represents a simple, reasonable and humane approach to regularizing the status of the undocumented population currently residing in the United States. Much emphasis is placed on treating family units as whole, i.e., granting legal status not only to the eligible applicant but to his immediate family as well. Our approach takes into account the concept of family reunification, which is the cornerstone of U.S. immigration policy, and takes measures to deter future illegal migration. A program like that proposed by the President, which would legalize the status of an undocumented person, but not provide any mechanism for family reunification would not serve its full purpose. It would, in fact, encourage future illegal migration and thus eventually re-create the very underclass of undocumented persons the program seeks to eliminate.

IMPLEMENTATION

The remainder of this testimony will focus on the factors involved in implementing a legalization program. In the final analysis, the success or failure of such a program will be guaged by the level of responseof the targetted population. This response will depend on many factors, including:

1. How appealing thie program is to the intended beneficiaries;
2. How easy or difficult it is to determine and prove eligibility;
3. What alternatives is posed to persons found to be ineligible;
4. What the overall enforcement situation is during the time of the program, and

5. What the level of support and cooperation of church, ethnic and immigrant serving groups is throughout the implementation of the program.

Because getting an underground population to come forward is a difficult task in itself, a legalization program must be designed and implemented with extreme care. All the factors listed above must be manipulated in such a way as to produce the optimal response.

Thus, we must begin with an offer that is appealing to the targetted population. As we expressed earlier, the Reagan proposal is so restrictive and complex, that many of the intended beneficiaries will choose not to come forward. A more appealing plan would entail a "one-time" adjustment of status, would be more generous with respect to social services and would allow for family unity.

Secondly, if a legalization program is to succeed, it must contain a clearly defined and simple way of proving eligibility. Before the undocumented would risk exposing themselves to the authorities, they would have to be sure they met the criteria for eligibility. Therefore, the government must specify exactly which documents would serve as adequate proof of eligibility. Morevoer, these must be documents which such persons could realistically be expected to possesss or which they could reasonably attain Because of the low-profile life style which undocumented persons in this country have purposely led, they may possess very few documents which would prove their long standing presence in the United States.

Also affecting the results of a legalization program would be the alternatives posed to those persons who clearly were not eligible and to those persons who, only after initiating the application process were found to be ineligible. Consider the first category of people, those who have not been present the requisite length of time. The Reagan proposal does not offer these people <u>any</u> form of amnesty. In fact, there is no mention of what would happen to those people. The obvious result would be that they would be deported or that they would continue their clandestine and vulnerable existence in the United States. This points to a self-defeating aspect of the Administration's plan--it limits the impact of the program by excluding a large segment of the undocumented population.

The next question that comes to mind is what will happen to those persons who come forward but cannot prove that they are eligible for legalization. This is another situation which was not addressed by the President's proposal. If the recommendation of the Select Commission, deportation, were implemented, the results would be devastating. The fear of deportation would be so great that the entire program would be destined to failure. In his paper, "Migration of Workers: What the U.S. Can Learn from Europe", David North points out that deportation of non-eligibles who thought they were eligible was one of the factors which contributed to the failure of Britain's amnesty program.[3]

North also makes an interesting observation about another alternative which could be presented to those whose eligibility is questionable:

> The Dutch Government's amnesty program has an excellent feature which the British one lacked; one could inquire about one's eligibility in a no-loss setting. If you were eligible, you got your papers; if you were not, they destroyed your application and forgot that you had asked. Some INS outreach offices, established in the very recent past, operate like this, but this is the exception in the U.S. setting.[4]

Although this alternative would not expand the universe of persons eligible, it would allay the fears of those who were indeed eligible, and thus increase the number of actual beneficiaries.

In our view, the ideal solution would be to grant some form of amnesty to all undocumented aliens present in the U.S. at the time the offer to legalize status was made. Those who were present in the U.S. prior to a selected cut-off date, would receive permanent resident status and those who were not, would receive temporary resident status.

Another determining factor on the results of a legalization program would be the level of interior enforcement of immigration laws immediately before and during the implementation of such a program. As I discussed above, augmented interior enforcement during this crucial period could only diminish the effectiveness

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[3] Amnesty: Conferring Legal Status on Illegal Immigrants, David North, New TransCentury Foundation, Washington, D. C. December 1980, p. B 16

[4] Ibid, p. B18-19.

of a registration drive. Many undocumented persons have had negative experiences with INS officials. If legalization is expected to attract this population, every effort must be made to gain their trust. Surely the occurrence of INS raids and a general crack down on interior enforcement would not go hand-in-hand with legalization.

The final key element to a successful legalization program is the positive involvement of churches, ethnic organizations and immigrant-serving agencies. Undocumented persons, suspicious and fearful of immigration officials, will look to such groups for advice before responding to such an offer. These agencies who in turn feel a responsibility towards the well-being of this population, will have to be assured that such a program is in these people's best interest. The British experience reveals the importance of having the support and commitment of such organizations. David North suggests that one of the pitfalls of the British program was "criticism that the program was "misleading" for the immigrant-serving agencies who urged aliens not to cooperate with it."[5]

Just as these organizations can hamper the success of a program which they consider deficient, they can be a powerful force in assuring the success of a feasible program. It is important therefore for the government to work closely with these groups in designing and implementing an effective legalization program.

In closing, let me recapitulate MALDEF's views on the issue before us:

FIRST, we believe there is an urgent need to legalize the status of undocumented persons presently residing in the United States. This population, in its current status, is highly susceptible to exploitation.

SECOND, any program intended to achieve this purpose must be simple and fair and must be as broad-reaching as possible.

THIRD, MALDEF considers the Reagan legalization proposal inadequate because it is unnecessarily complex and restrictive

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[5] Ibid, p.B 16.

and because it ignores the substantial portion of the undocumented population residing in the U.S. who entered after January 1980.

FOURTH, MALDEF agrees with the Select Commission's recommendation that persons who have been in the U.S. since before January 1980 (or a reasonably recent date) should be granted immediate permanent resident status. We reject, however their proposals to delay initiation of such a program until increased enforcement has been implemented and to deport ineligible aliens.

FIFTH, MALDEF believes that the opportunity for adjustment of status should be extended to all undocumented persons currently participating in our society and to their immediate families. We propose a two-tiered program which would grant permanent resident status to those present prior to January 1980 (or a reasonably recent date) and to their immediate families, and temporary resident status to those who entered the country subsequent to that date. We further propose that after five years of residence in the U.S., temporary residents be made permanent residents and that the same status be granted their immediate family. During their term as temporary resdients, aliens should be afforded the same rights and benefits as permanent residents.

FINALLY, MALDEF stresses the need for careful manipulation of the various factors involved in implementing a legalization program. In order for such a program to engender a broad response from the intended beneficiaries, it must be appealing, it must provide a simpler means of determining eligibility, it must pose reasonable alternatives to those found ineligible, it must not be accompanied by increased interior enforcement, and it must have the support and cooperation of organizations which have close ties to the undocumented community.

We hope our comments will be helpful to the subcommittee in their deliberations over this important and delicate issue. MALDEF looks forward to working with you in the development of a fair and reasonable legalization program. I will be happy to answer any questions you may have at this time.

Interfaith Coalition for Justice to Immigrants

Senator Alan Simpson
Subcommittee on Immigration and Refugee Policy
Senate Judiciary Committee
Dirksen Senate Office Building, Room 6205
Washington, DC 20510

Testimony by the Interfaith Coalition for Justice to Immigrants Before the Subcommittee on Immigration and Refugee Policy, Senate Judiciary Committee, October 22, 1981.

On behalf of the service centers, local churches, church and community organizations who participate in the Interfaith Coalition for Justice to Immigrants, we would like to make the following recommendations regarding proposals for temporary workers' programs:

1. Any proposal make a top priority the maximum protection for the worker, both U.S. citizen and foreign.

   We recommended that U.S. citizen workers, workers under any continued H-2 program and all other immigrant workers, be granted greater protection by stronger enforcement of labor protective legislation on wages, hours, and conditions of employment, and that all such workers have a right to unionize.

2. We oppose the institution of any new temporary worker program.

REASONS

No new temporary workers program should be instituted. If it is to be retained, the current H-2 program could meet whatever need for such a program can be decisively demonstrated. Furthermore, if it is to be retained, major changes are needed in the current H-2 program. H-2 workers must be given all the same protections as those to which U.S. citizen workers are entitled, and these protections must be enforced. The possibility of exploitation must not provide an incentive for employers to hire H-2 workers in preference to U.S. citizen workers and other immigrant workers. For example, employers should be required to fund FICA and unemployment insurance for temporary workers. If certain industries have become dependent on a constant supply of H-2 workers, then the government, employees, and unions should work to end that need.

Exploitation of workers must not be encouraged. The need for people to do hard work for low wages is often cited as justifying a temporary worker's program. Demanding hard work for low wages and with less protection than the U.S. worker receives not only exploits the temporary worker but makes him or her a second-class member of U.S. society. A government-sponsored method of recruiting such workers increases the potential for such exploitation. When any worker in the U.S. is exploited, the effort of the U.S. citizen workers for justice and good working conditions is also undercut. Our government should be about the task of protecting workers from exploitation and fostering workers' own efforts to defend themselves from exploitation, NOT creating the conditions for undercutting of wages and working conditions. Mexican unions also oppose the program.

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Interfaith Coalition for Justice to Immigrants

A temporary worker program will not provide a "safety-valve" for Mexico. The program is suggested for fifty thousand workers a year, not a large enough number to provide such a safety-valve. Better is it for the U.S. to work with Mexico to have them develop their own society to provide jobs for more people. A program large enough to ease Mexico's unemployment problem by employing people here in the U.S. certainly would have many adverse effects on both countries, not the least of which would be the effect on U.S. citizen and immigrant workers already here.

A temporary worker program would be difficult to administer, as was exemplified by the Bracero Program. Administrative questions, such as how to match workers with jobs and how to oversee the program so that workers are not exploited, indicate that the program would be costly in money and personnel, and frustrating to administer. The cut-backs in funding for the necessary ongoing service functions of the Immigration and Naturalization Service militate against such a complicated program being initiated, taking more of the already strained funding from an overworked, overstrained and inefficent department of the government.

The U.S. would be likely to be accused of serious human rights violations, were the Reagan Administration's proposed temporary workers program to be enacted. Basic aspects of the program as designed may be cited as such violations. For example, the program specifically calls for the forced separation of families and for explicit discrimination against temporary workers in matters of basic protections and benefits to which other workers are entitled. The record of implementation of temporary worker programs can also lead us reasonably to conclude that lack of enforcement of worker's protections as designed in the program, as well as other factors, will lead to further violations.

A temporary worker program would be likely to increase "illegal" immigration. The experience of the Bracero Program demonstrates this. The recruitment system and the very existence of the program encouraged many Mexican workers to leave their homes in order to immigrate to the U.S.. Many of these workers might otherwise nto have done so, but having decided to leave, when they were unable to obtain Bracero papers, they came to the U.S. without papers. Such a program is likely to aggravate existing problems, rather than alleviating them.

CONCLUSION

For these reasons, we of the Interfaith Coalition for Justice to Immigrants recommend that no temporary workers program be instituted and that the highest priority be place on providing maximum protection for wages, working conditions, and unionization rights for all workers in the U.S., citizen and immigrants alike.

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October 25, 1981

Subcommittee on Immigration and Refugee Policy
Committee on the Judiciary
United States Senate
Washington, D.C.

Re: Hearings on October 28 and 29, 1981:
Administration's immigration proposals: Legalization

STATEMENT OF ERICH PARK, EXECUTIVE SECRETARY,

ESTONIAN AID, INC., NEW YORK, N.Y.

Mr. Chairman and distinguished members of the Subcommittee:

I respectfully submit the following remarks on the subject of legalization in the Administration's immigration proposals, with a request that these be included in the report of the hearings:

I. GENERAL REMARKS

There have been some inconsistencies in the information about the Administration's amnesty or legalization proposals.

On May 23, 1981, Robert Pear of The New York Times reported that the President's advisory panel had agreed on a "two-tier" program, under which illegal aliens who were present in the United States before January 1, 1980, and who have been "continually resident" in the U.S. for at least five years, can apply for the

status of permanent resident. Those who have been in the U.S. for three to five years would become eligible for temporary worker status, until such time when they, too, reached the 5-year mark, and would then be allowed to apply for permanent residency. However, the official statement of the Department of Justice, released on July 30, 1981, and entitled "U.S. Immigration and Refugee Policy", indicates that the proposed 5-year residency applies only to Cubans and Haitians who have been here prior to January 1, 1981. Other illegal aliens who have been present in the U.S. prior to January 1, 1980, can, according to the Justice Department, apply for a status of "renewable term temporary resident", and when they have been residing in the U.S. for ten years, they can apply for permanent resident status.

We have been unable to find more information on the Administration's plan. Also, we are unaware of the existence of any possible immigration bill which could be pending before this Subcommittee. Therefore, we assume that the Justice Department's July 30th policy paper is the only official proposal now under consideration, and that the initial "two-tier" plan has been dropped. Yet, to learn what the Administration really wants to do, a couple of questions first need to be answered:

(a) Period of Residence

What is meant by the "period of residence" (five years for Cubans and Haitians, ten years for others)? How would the starting date of such an entitling period be determined? Would this be the date of amnesty, or the date when an illegal alien comes to register? Or, would it be the date of his or her last lawful or unlawful entry into the United States? Or perhaps even the date of his or her first entry? (The fact is, that, over a period of several decades, many illegals have been in and out of the United States countless times). If the latter, i.e., counting from the first entry, or even from the last entry, is the case, then perhaps the majority of all illegals could qualify for full permanent resident status right away.

(b) Cubans' and Haitians' most-favored privileges

Why are Cubans and Haitians offered more favorable terms than others? Why are they exempted from the proposed 10-year waiting period prior to eligibility for permanent residency? And, why are they exempted from restrictions against access to welfare, Federally assisted housing, food stamps, unemployment insurance, and rights to bring in spouses and children? (Such restrictions are written into the proposals concerning all other illegal aliens except these two groups). --

Whatever the answers to these questions, and despite our general opposition to the proposed amnesty, we feel that the offering of different privileges to different groups of people, in violation of the principle of equality, is deplorable.

II. ARGUMENTS AGAINST LEGALIZATION

* Extent of Problem Unknown

Nobody knows the approximate number of illegal aliens living in the United States. Speculations vary from 3 to 15 million, depending on who is doing the guessing.

A strong amnesty lobby, active for many years, succeeded last year in selling the Select Commission on Immigration and Refugee Policy, and later probably also the current Administration, on the idea of the illegal resident population being only 3.5 to 6 million. In view of the tremenduous work done by the pro-amnesty forces, this estimate is highly questionable, and it may very well be that a two-digit estimate is much more realistic.

Once they were granted amnesty, and permanent resident status, their unknown numbers would be multiplied through the families and relatives whom they bring in.

All illegals who, after certain steps have been taken, have not voluntarily departed, but still wish to benefit from some sort of possible future legislation, should be asked to come forward to register. Unless

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this has been done, nobody knows the extent of the problem, i.e., the approximate number of these people, without which knowledge the consideration of <u>any</u> relief bill is unthinkable. Legislation without facts can blow the budget and create serious socio-economic difficulties.

* <u>Affirmative Action</u>

With very few exceptions, almost all illegal aliens belong to the so-called "affirmative action" category, with mandated privileges for preferential treatment in employment, education, and governmental financing of their commercial enterprises. Legalization of their illegal status, without prior abolition of affirmative action programs, would detonate catastrophic unemployment explosions, The extent of this should become apparent if one realizes that each "legalized illegal" may deprive him of 2 or 3 chances for landing a job.

To apply the science of probabilities, the exact number of chances for employment to be lost on account of each such "affirmative"-category alien depends on the latter's sex: a male alien, when "legalized", will do away with two chances, a female with three. The way this displacement formula works is as follows: Under the Government's affirmative action policies, the "minority" candidate (this is how they call them) gets one chance on account of himself or herself, <u>plus</u> an additional chance on account of being "black", Spanish-surnamed, or Oriental, <u>plus</u> one more additional chance or preference point if she is a woman. A married "minority" couple, with their preference points added together, thus eliminates five chances for employment: two by the husband, and three by the wife. Later on, after the "legalized" illegals have brought over their often quite large families and numerous relatives, these additional millions, too, would automatically become beneficiaries of affirmative action programs, entitled to preferential treatment in employment and elsewhere. The number of non-Latin and non-Oriental "white" Americans displaced from jobs and education would then grow in almost geometric progression.
The more that affirmative action privileges, and the presently sought-for legalization of illegal aliens, become known in the Caribbean,

and South and West of our borders, the heavier will grow the rush of illegal migrants.

* Rewarding Lawlessness

The adoption of the proposed general amnesty would be an assurance that crime and lawlessness always pays. It would be a reward for willful violation of U.S. laws, and a slap in the face to all these who may also have want to come here but stayed within the limits of the law.

* Invitation for More

It would be an invitation for new avalanches of illegal aliens, making even the 1980 influx of Cubans just a drop in the bucket.

* Welfare

Although the Justice Department's policy paper states that "renewable term temporary residents" (other than Cubans and Haitians) would not have access to welfare, Federally assisted housing, food stamps, and unemployment insurance, I think we all know that the courts would not allow such no-welfare clause to be enforced. Therefore, on top of affirmative action privileges, the legalized illegals will certainly start pipelining to industrial cities with higher welfare payments and poorer supervision of public assistance programs.

* Relatives

In spite of the proposed provision that "renewable term temporary residents" (other than Cubans and Haitians) would not be able to bring in their families, this, too, is utterly problematic. Even if this were written into the proposed legislation--we have plenty of other laws with things written into them which the courts, especially Federal courts, ignore.---

The extent of the welfare and relatives' problems depends also on how to determine the five or ten year "period of residence". If the starting date of the entitling period should be that of an illegal alien's first or last entry, then millions of such aliens would get

their full welfare rights and rights to bring in relatives already on the date of amnesty, without need to wait for court rulings.

* Crime and Slums

Welfare and unchecked migration are the main causes of urban blight: overcrowding, unemployment, drugs, crime, moral decline, and general human degradation.

The concerted action of vote-seeking politicians, misguided social reformers, and inefficient and legislating courts has made welfare more profitable than work. Day and night, for several decades, people have been migrating to big cities: from the rural South, from the Caribbean, from the countries of Central and South America, and from Asia and the Pacific islands.

The proposed legalization of illegal aliens, with its promise of welfare and affirmative action privileges for added millions, would cause a sudden widening and worsening of our slums, and a great increase in violent crime. This increase would be stimulated also by the overall demoralizing effect of the mass amnesty.

* Economy

Decaying cities, overcrowded prisons and chronically unbalanced budgets indicate that our economy can no longer absorb everything that is running wild, without checks and balances.

* Opportunities vs. Entitlements

America was said to be a land of opportunities. Now it is a land of entitlements.

Opportunities are no longer equal. Under the government's affirmative action policies, some equals are more equal than others.

A multitude of professional do-gooders whose personal affluency is closely tied to Government's give-away programs would never end lobbying for more entitlements. Politicians and elected officials likewise are hard put in dealing with the powerful special-interest groups and their big vote.

Yet, reason should prevail. We do have to resist the reckless bleeding of the country's moral and economic resources. For the world as a whole, a strong United States is worth more than an exhausted and deteriorated one.

* Alternatives to Immigration

The United States cannot accomodate everybody in the world who would like to move here, especially not all those who are being lured by our entitlement and dependency policies. Fortunately, however, this country is not the only place of happiness. It were wrong to think that all those who have voluntarily left their homes and come here made the right choice. Many immigrant families in our crime-infested slums, especially those with children, could have been much happier in their native lands.

To take a real humanitarian approach, and not treat migration problems as a rewarding profession, one should reach out to working with the needy in their home countries rather than attempt to transplant them all onto United States soil. One should nurture their self-sufficiency rather than their dependency.

Although economy-minded, I would gladly support more foreign aid for the countries who supply us with illegal aliens. However, such aid must be geared towards vitalization of the receiving countries' economies, and not for military aid, and not to allow situations like those which have developed in the American Food-Aid programs, often counteracting the real interests of an aided land.

The American Peace Corps was a great idea. That institution has to be continued, but also reformed. We should send out no more English teachers, but agricultural extension specialists and industrial planners. We should show the villagers why their chickens lay no eggs, how a small flock of geese can produce plenty of meat feeding solely on grass, and how one cow could produce more milk than two or three.

We should export and develop know-how on the cooperative movement,

and should help to set up producers' and consumers' co-ops. We could help people to organize cooperative dairies, major farm machinery cooperatives, selling and buying cooperatives, and even cooperative industrial plants. Instead of constantly expanding our automobile industry, leading the world into more and more senseless burning of oil, and into more and more pollution, traffic accidents, and mobile crime, a part of our economy could be redirected towards the development and production, for the hungry world, of more hand-tools, animal-driven plows, mini-tractors, and the like. Special provisions in our immigration and foreign aid laws should help the developing countries to have some of their own agricultural specialists get additional training in the U.S., and our foreign aid programs should have funds earmarked for the support of vocational agricultural schools in the receiving countries. Also, one should not overlook considerations of more American investment in the Caribbean, and in Central and South American private industry.

* Too Early to Discuss Legalization

If the Congress enacted meaningful employer sanctions, with high enough penalties and with no employers exempted, and also created a meaningful identification system with a national identity card or domestic passport, combined with a Federal residence registration law, illegal residency in the United States would become much harder. A considerable part of the present illegal population would be expected to go back home.

Of course, a number of other enforcement measures must also be planned, revised, and carried out. Unnecessary restrictions and limitations that now handicap the ability of the Immigration and Naturalization Service to enforce the law should be eliminated.

Meanwhile, until all this has been tried, it is too early even to discuss any legalization or amnesty programs.

Respectfully submitted by

Erich Park

TESTIMONY

of

Philip Martin

before the

Subcommittee on Immigration, Senate Judiciary Committee

Thursday, October 22, 1981

I am Philip Martin, Associate Professor of Agricultural Economics at the University of California-Davis. My testimony covers three topics:

1. The impacts of guestworker programs in Europe
2. Alien labor in U.S. agriculture
3. Enforcing labor laws in agriculture

My oral testimony is amplified in attached research papers.

Temporary worker programs and proposals can be compared along two dimensions: what kinds of jobs do migrant workers fill and are the alien workers tied to a particular employer with a work contract or free to take any job in the host nation?

1. (JOBS) Are the jobs filled by alien workers seasonal or temporary, as in agriculture and summer resorts, or permanent, as in factories or year-round hotels and restaurants?
2. (CONTRACTS) Are alien workers tied to a particular employer with a work contract or are the aliens "free agents" in the host nation's workforce?

The bracero and the H-2 programs are examples of contractual-seasonal program. In Europe, nationals of EEC member-states are usually noncontractual-permanent workers; workers from non-EEC countries are contractual-permanent workers.

1. The European Experience

Most of the foreigners recruited to work in Northern Europe were contractual-permanent workers from non-EEC countries. These workers were recruited from non-European Economic Community (EEC) nations by employers privately or through bilateral recruitment missions. In the early 1970's, several thousand non-EEC guestworkers were arriving in Northern Europe everyday.

I have explored the German experience with guestworkers in the attached research article. The main lessons from this experience include:

1. Guestworkers cannot be rotated easily if they are recruited to fill permanent (e.g., factory) jobs. The workers and their employers succeed in renewing the work contracts of good workers. These workers cannot be separated from their families forever, and most obtain rights to fetch their dependents after one year.

2. Since the best and brightest guestworkers remain abroad, international labor migration tends to increase income disparities between nations. If industrial countries continue to recruit or accept migrant workers from developing countries, they will come under increasing pressures to compensate poor emigration nations.

Some of the integration dilemmas posed by guestworkers could be avoided if the U.S. operates a seasonal-contractual guestworker program. Seasonal foreign workers can be required to leave their families behind and then housed in labor camps near the worksite. The objections to seasonal workers include:

- the possibility that seasonal aliens in labor camps may be mistreated.
- protests that families should not be separated.
- the targeted subsidy implicit in government-sanctioned recruitment of the exact number of workers required by an employer.

Given international wage disparities, access to seasonal alien labor impedes the integration of labor markets, since wages and work conditions in seasonal industries with aliens tend to fall further behind the mainstream.

The "free agent" seasonal-noncontractual questworker program proposed by President Reagan minimizes the mistreatment and targeted subsidy problems but raises displacement and control issues. If the seasonal aliens are not tied to an employer, how can the U.S. ensure that aliens work only for employers with certified job vacancies? Without work contracts, a seasonal alien worker could remain jobless in the U.S. Finally, free agent aliens can be encouraged to depart if they must post a bond in Mexico, inviting corruption, or if the INS steps-up its interior enforcement activities, raising civil rights issues. In short, the issues that will be debated after a two-year pilot program can be spelled out today. Even a very careful evaluation of

these displacement and control issues will not be able to disprove critics definitively.

Since the attached paper spells out the European experience with guestworkers, I would like to turn to a much misunderstood topic--alien labor in American agriculture.

2. Alien Labor in U.S. Agriculture

There are 2.5 million farms in the U.S. Farmers and their families do about two-thirds of our farmwork.

In a typical week, farmers offer about 1.3 million jobs to hired farmworkers. However, the "average" farm job is held by two hired farmworkers during the year, meaning that 2.6 million persons do farmwork for wages annually. There is an enormous variance around this average--a year-round dairy job is filled by just one person while a harvest crew that averages 20 workers may include 100 individulas in just one month.

The primary farm labor problem is seasonality--hired labor is needed for only a few weeks or months each year. Farmers must live with the uncertainties of weather and markets, so they try to insure against the risk of not having enough seasonal farmworkers by having a large pool of workers available. Since workers flow in and out of this labor pool, farmers need a simple way to utilize a very diverse workforce. The preferred way to employ farmworkers is to hire almost everyone who will work and pay workers piece rates that reflect each person's productivity. Piece rate wage systems minimize the need to select, train, and supervise workers.

There are many misconceptions about the hired farm workforce. The data are not perfect--and I urge the Committee to recommend a comprehensive study of who does farmwork--but the USDA's 1979 farmworker profile released in August 1981 indicates that the "typical" hired farmworker in the U.S. is a 23 year-old white male. Other details: (Table 1)

- 75 percent of the hired farm workforce is white, 13 percent is Black, and 12 percent is Hispanic.
- 57 percent of all farmworkers are under age 25; 28 percent are 14-17 years old.

Table 1--Number of hired farmworkers by race, age, sex, migratory status, farm-nonfarm work, and duration of farmwork, averages, 1967-69 and 1977-79

Item	3-year average 1967-69	2-year average 1/ 1977-79	Change: 1967-69 to 1977-79	Percentage of total 1967-69	Percentage of total 1977-79
	---Thousands---		---------Percent---------		
Total 2/	2,856	2,691	-5.8	100	100
Race: 3/					
Whites	2,159	2,275	5.4	76	85
Blacks and Others	697	416	-40.3	24	15
Age (years):					
14-17	942	742	-21.2	33	28
18-24	568	776	36.6	20	29
25-34	352	467	32.7	12	17
35-44	307	263	-14.3	11	10
45-54	293	184	-37.2	10	7
55-64	258	145	-43.8	9	5
65 and over	135	117	-13.3	5	4
Region:					
Northeast	242	201	-16.9	8	7
North Central	587	758	29.1	21	28
South	1,279	1,111	-13.1	45	41
West	748	622	-16.8	26	23
Days of farmwork:					
Less than 25	1,248	977	-21.7	44	36
25-74	729	670	-8.1	26	25
75-149	298	323	8.4	10	12
150 and over	581	722	24.3	20	27
Migratory status:					
Migratory	271	204	-24.7	9	8
Nonmigratory	2,585	2,488	-3.8	91	92
Primary employment status:					
Nonfarm work	364	470	29.1	13	17
Farmwork	775	860	11.0	27	32

1/ A 2-year average for 1977 and 1979 was used because the hired farm working force survey became biennial after 1977. Data for 1978 are not available.

2/ Percentages and numbers may not add to totals due to rounding.

3/ Hispanic data were not available for hired farmworkers for all periods.

- 36 percent of all hired farmworkers do less than 25 days of farmwork each year.
- 8 percent, about 205,000 people, are migrant farmworkers crossing county or state lines and staying away from home over night to do farmwork.

There are problems with this profile data, but the data imply that farmworkers are young people who do farmwork during summer school vacations.

The farm labor picture is clearer if farmworkers are grouped into 3 categories:

1. Year-round farmworkers in dairies and feedlots tend to be prime-aged American workers.
2. Quasi-permanent machinery operators, irrigators, pruners, and some harvest workers who work 8-11 months each year are prime-aged Americans and legally-admitted aliens (greencarders).
3. Short-term harvest workers are diverse. Many are the students who show up in the national profile. Some are local housewives and day-haul workers from nearby towns. Some are migrants from Texas, Florida, and Puerto Rico. Some are legally-admitted H-2 workers. Many are illegal or undocumented workers from Mexico, the Carribbean, and South America.

Temporary worker proposals seek to augment the short-term harvest workforce. But blind acceptance of the need for an expanded harvest workforce would undo much of the progress that has occurred in the farm labor system. Many of the 5,000 commercial farms that hire one-third of all farmworkers have adopted modern personnel practices, including:

- written personnel policies that spell out the expectations of employers and establish rules for retention, promotion, and re-hire.
- payment by check and provision of nonmandatory fringe benefits e.g., vacation pay, off-the-job health insurance, and end-of-season and return bonuses.
- training and career ladders that give farmworkers incentives to remain with one farmer or employer association.
- hourly wage guarantees and some pay for coming to work if weather, mechanical, or processor problems mean no work is available.

This progress has been encouraged by fears of insufficient labor. However, the availability of illegal alien labor is threatening the stability these innovative farmers bring to the farm labor system. Illegal aliens are still a minority of all hired farmworkers, but they may be a majority among short-term harvest workers in particular areas of the Southwest and the West Coast. Even in areas with a significant number of illegal aliens, farmers can be found producing the same commodities their neighbors are producing with illegals. The danger is that these innovators will be driven out of business by farmers and labor contractors who flout the law.

Agriculture is at a crossroads. The prospect of labor scarcity encouraged mechanization and job upgrading. However, an uncontrolled flood of illegal aliens and a resurgence of farm labor contractors threatens to undo much of the recent progress. The farm labor market is being tugged in opposite directions, and immigration policy will influence the outcome.

Americans will do farmwork. Howevr, American workers with alternative job opportunities and access to income transfers will not accept low-paying, dead-end jobs that put many of the farmers' risks on their shoulders. Some farmers have shown how to restructure agricultural labor markets and end their reliance on illegal aliens. These farmers' actions should be encouraged not discouraged.

3. Enforcing Labor Laws in Agriculture

A re-examination of the bracero program underway at UC-Davis indicates that the most promising way to enforce laws against the hiring of illegal aliens in agriculture is:

- to certify that a crop in a given geographic area needs alien workers.
- to require farmers growing that crop and using aliens to form an employer association for the purpose of recruiting alien labor.
- to deny alien workers the following year to the crop if more than 5 or 10 percent of an association's members are found to be employing illegal aliens.

In addition, the processors buying fruit and vegetables could be made liable if crops were accepted from farmers found to employ illegal alien workers. Penalizing a group of farmers or the processor will reinforce an individual farmer's reluctance to hire aliens and risk sanctions.

GERMANY'S GUESTWORKERS

Philip L. Martin

February 1981

Auslander raus! The slogan appears frequently in streetside graffiti. The right-wing National-demokratische Partei Deutschland (NPD) made "Foreigners out. Germany for the Germans!" its slogan during the October 1980 election. Expert opinion says that a majority of Germans would prefer to see most of the foreigners leave. Most Germans now believe that the 20-year attempt to spur economic growth with foreign workers is producing more costs than benefits.

The German migrant labor experiment is souring just when the U.S. may begin a migrant worker program with Mexico. Senators Hayakawa (R-Ca.) and Schmitt (R-NM) have proposed a "companero" program to permit an unspecified number of Mexicans to work in the U.S. six months each year. President Reagan reportedly discussed a migrant worker program with Mexico's President Portillo shortly before taking office in January 1981. Given our illegal immigration, what can we learn about a guestworker solution from the Germans?

The 4.5 million foreigners in Germany are the last vestige of the waves of Gastarbeiter imported between 1960 and 1973 to help fuel non-inflationary economic growth. The Germans intended to import temporary "guestworkers"--poor peasants from southern Italy, Yugoslavia, Greece, Turkey, Portugal, and Spain for one or two years work at high German wages. While abroad, these migrants send home the money so desperately needed to accelerate economic development. Returning migrants with industrial skills would be employed in remittance-created factories, putting labor-exporting countries on the road to an economic take-off. Gradual elimination of the poverty and unemployment driving poor peasants abroad promised to stop temporary labor migration.

The optimism of the 1960's has soured. The idea that "mutual benefits" naturally arise from temporary labor flows has left a legacy of minority problems in labor-recruiting Germany and distorted economic development in most of the labor-sending nations. The 1980's mark a new turn in European and especially German guestworker policies, a recognition that while guestworkers

provide immediate economic benefits to selected employers, workers and consumers they later impose hotly debated integration costs on the whole society. This lesson of immediate selective economic benefits but deferred general socio-economic costs has important implications for the 20-odd bills pending in Congress to initiate a large-scale guestworker program in the U.S.

Early Optimism

West Germany began economic re-construction in 1949 with massive unemployment. Even after currency reform and the "social market economy" put Germany on the path of sustained economic growth, unemployment persisted because of the influx of East German refugees. Isolated labor shortages first appeared in 1955, when German farmers requested permission to hire Italian harvest labor. Germany signed a labor recruitment agreement with Italy late in the same year. But it soon became apparent that the family farms of Germany were not going to require much foreign labor--the real need for labor was in the German factories producing cars, machine tools, steel, and consumer durables for booming export and domestic markets.

The 1957 Treaty of Rome established the European Economic Community and guaranteed citizens of member states the right to work in any EEC nation. West Germany continued to recruit EEC Italians and absorb refugees fleeing East Germany. The Berlin Wall closed the door to West Germany in 1961, encouraging labor-short German manufacturers to cast a wider net for additional labor. Germany concluded labor agreements with Greece, Spain, Yugoslavia, and Turkey in 1960-61.

The guestworkers coming to Germany were usually unskilled males between 20 to 40. Initially recruited by German employers and bilateral commissions, word-of-mouth soon led to waiting lists of Turks and Spaniards, each anxious for his chance to earn high German wages. German employers decided how many aliens they needed and what nationality was preferred in discussions with plant-level works councils. A request for 1,000 Turks was sent to the local Employment Service office, which made a pro forma check to see if Germans were available. If Germans were not available (95 percent of the time), the request was passed on to a bilateral recruitment mission in Turkey, where an individual already screened for health, skills and a crime-free background

would be awarded a German residence permit and a one-year work contract with a specific employer. The German Labor Office arranged and paid for transportation to Germany where employers typically provided barracks-style housing. In the late 1960's, 5,000 guestworkers were arriving daily in Germany, part of the most massive "human trade" in Europe's peacetime history. One day after arrival, the guestworker was at work on the assembly line or at the construction site.

The notion that temporary labor migration provides benefits to both sending and receiving countries was so powerful that the number of ostensibly temporary guestworkers swelled beyond anyone's original expectations. In 1960, Germany had fewer than 300,000, mostly Italian, guestworkers. Twelve years later the 2.5 million guestworkers in Germany, nearly one in eight workers in Germany, were dominated by Turks and Yugoslavs. Foreign workers were more common than Germans in some construction crews and on assembly-lines. The alien workers sweeping streets and collecting garbage became a visible reminder of the German economy's dependence on foreign workers.

Most of Germany's guestworkers shuttled in and out of Germany as expected. The widely publicized Rotationsprinzip worked when recession struck late in 1966. One year later, almost 500,000 guestworkers were gone, their jobs presumably available for unemployed Germans.

The continued movement of foreign workers in and out of Germany obscured the fact that more and more temporary "guests" had been German residents for four or five years. Migrants were expensive to German employers, requiring the payment of recruitment fees, translation, housing and training costs, and the same wages and fringe benefits paid to native workers. German employers did not want to send a trained migrant home just because a one or two year work contract expired and then repeat the recruitment, training and housing process with an unknown alien. The migrants themselves were not anxious to return to the low wages and unemployment which still plagued their countries and, in some instances, the lack of political freedom in their native countries (especially the Greeks and Spaniards during dictatorship eras).

Permanence

The German guestworker system originally envisioned the shuttling of temporary alien workers through "permanent" manufacturing jobs, jobs requiring someone else to fill them after the short-term migrant departed. The self-interest of employers and migrants, however, meant that incentives tended toward a permanent rather than a temporary employment relationship.

The unions, churches, and migrant welfare organizations pressed the German government "to improve the status of migrants." A series of administrative rulings and government decisions in the late 1960's and early 1970's effectively gave most guestworkers the same rights as EEC nationals: once in Germany, the "guests" could not be forced out.

Instead of forced returns, guestworkers obtained rights to have their dependents join them in Germany after one year's employment and with proof of suitable housing. The predictable result was a stream of dependents eligible for German children's allowances (now $135 monthly for 3 children) and requiring education in Germany. Migrants moved to particular sections (ghettos) of the largest German cities, giving Frankfurt, Berlin, Stuttgart, and Munich separate little Italys and Turkish, Spanish, Yugoslav and Greek enclaves. The subway running through the Kreuzberg district of Berlin has been dubbed the "Orient Express", reflecting the dominance of Turkish residents. As foreigners moved in, Germans moved out, making the ethnic enclaves islands in the German cities.

Educating and housing migrant dependents finally made the public-at-large aware of Max Frisch's aphorism, "We asked for workers and got men." The presence of so many workers and dependents for so long made the original employer promise of a "short-term" need for alien labor seem ever more hollow. Popular discontent with burgeoning foreign populations and narrowly defeated referenda to sharply reduce the foreign workforce in neighboring Switzerland made aliens a public issue. Germany is now debating the trade-offs between labor needs for economic growth and the rise of ethnic minorities and tensions in relatively homogeneous Germany.

Recruitment Stop

The tension arose between employer needs for alien labor to sustain

noninflationary economic growth and fears that ostensibly short-term guestworkers were becoming backdoor permanent immigrants. In February, 1973, the federal government announced that the recruitment fee would be increased from a nominal 350 DM to 1,000 DM per worker in September to discourage "overreliance" on aliens. Employers responded by importing 500,000 migrants in the spring and summer of 1973, more than ever before. The October 1973 Middle East War and subsequent oil embargo prompted wide-spread fears of an economic recession. The German government stopped migrant worker recruitment on November 22, 1973, an action justified by the feared recession. Many contemporary observers thought the government had at last found a convenient excuse to halt immigration and reassess policies without offending employers.

The 1973 recruitment stop was accompanied by a series of measures to mute other critics. No guestworker would be forced to leave Germany against his or her will, although migrants would be "encouraged" to return to jobs created in German-subsidized factories at home. Migrants could continue fetching their dependents, but wives and teenagers wanting to work would have to wait several years before they could get work permits. Money to provide housing, social services, and special education for migrant children was allocated to cities with high concentrations of foreigners.

Since 1973

Seven years have elapsed since Germany ended its labor-importation experiment. The number of foreign workers has been cut 20 percent to 2 million, but the total foreign population is now at an all time high of 4.5 million. During the 1960's, almost all migrants in Germany were working, contributing to expensive social welfare programs but receiving few benefits. Nonworking dependents now outnumber migrant workers in Germany. Since migrant families tend to be bigger and poorer, they often draw larger social welfare benefits than natives Germans.

The old economic issues are rarely raised today. In the 1960's, economists debated the contributions of migrants to Europe's rapid postwar growth (most believed they were a significantly positive influence). Some economists argued that employers were getting migrants too easily, discouraging the search for labor-saving innovations necessary to compete with foreign competitors (e.g., Japan).

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The work-related issue receiving most attention in the 1960's was the role of aliens in German trade unions. Marxists argued that aliens were a structural requirement of advanced capitalism, necessary to do society's dirty work and divide the working class with ethnic and linguistic barriers. German unions established special migrant departments and issued a variety of publications in the migrants' own language but permitted only slow migrant advances within the union hierarchy. The migrants themselves were reluctant to become too entangled in strange unions, since most believed they would be abroad only a few years and most were far more interested in achieving a savings target than improving working conditions already far better than anything at home.

Socio-political issues have replaced economic questions. The fundamental issue is whether 15 years of importing the alien labor requested by employers has made Germany an immigration country. The official line has not changed--Germany is not an immigration land. Instead, no new aliens are to be admitted and those present are to be integrated as rapidly and fully as possible. However, the "desire to return" is to be strengthened and assisted wherever possible. As will become apparent, this "policy" is marked by contradictions and made ineffective by seemingly irreversible processes set in motion over the past two decades.

Immigration

The German economy in the 1960's offered enormous profit opportunities. Capital to build factories and markets to sell products were readily available. The only thing standing in the way of profit was insufficient labor. Unemployment rates hovered around zero and, even though relatively few German women worked, employers did not think women could be induced into noisy factories and arduous construction jobs. If a little foreign labor were available for the few years this extraordinary economic situation was expected to last: private profits, low inflation, extra tax monies, upward mobility for natives and economic development in Germany's poor neighbors were only a few of the blessings which, it was promised, would follow.

The German people were largely opposed to fremd (strange) people as immigrants. Germany considered itself to accepting the ethnic Germans fleeing

Eastern Europe but few immigrants from other lands. The German employers' political success was to convince the German people that alien workers would remain guests. Hence, Germany could admit 500,000 migrant workers annually and still proclaim that it was not an immigration land.

The 4.5 million foreigners in Germany are only 7 percent of her 60 million people. But no German politician can simply say that the borders will remain closed and the resident foreigners absorbed as a snake digests a mouse. To accept the 4.5 million as immigrants is to break a past promise to the German people and to make more explicit the current distributional consequences of past guestworker practices.

Germany's guestworkers helped particular segments of German society between 1960 and 1973. They expedited upward mobility for some natives, lowered prices for consumers (including foreign consumers, since many guestworker-produced goods were exported, as VW's to America) and provided taxes for governments. But, above all, guestworkers increased employers' profits. These profits were concentrated in the hands of the major manufacturing and construction firms (and their shareholders).

The profits from guestworkers were concentrated in one segment of the population at one point but the costs of guestworkers are now being shared by everyone. Guestworkers turned out to be a labor subsidy to employers using them. These employers' profits could have been taxed to provide funds to integrate current resident aliens and their children. But the myth that foreigners were only temporary workers, not permanent immigrants, effectively squelched the notion of taxing employers or their goods to pay later integration and infrastructure costs.

The most dangerous myth surrounding guestworker programs is that they are a cost-free labor-subsidy to selected employers. The notion that temporary individuals can be rotated though permanent jobs is ultimately rejected in industrial democracies (only South Africa effectively shuttles temporary migrants through permanent jobs) but the guestworker concept prevents the enactment of taxes to pay the integration costs that inevitably accompany migrant workers.

Integration?

Germany remains unsure whether it wants resident foreigners to become immigrants, but it is sure it wants to "integrate" them into German society while they are present. Helmut Schmidt made the integration of foreigners the top domestic priority when he addressed the first meeting of Social Democratic Party (SPD) representatives after his October 1980 reelection. The liberal SPD argues that integration is the reward for the migrants past economic contributions but, Mr. Schmidt is quick to add, "four million is enough." Integration won't be easy, he continued: "It's not easy for Germans who live in an apartment house and who don't like the smell of garlic to have to put up with it and even to have a lamb slaughtered in the hallway." The dilemma is how to integrate foreigners when the final goal--citizenship and full participation--cannot be uttered yet.

The integration dilemma is compounded by more than German reluctance to convert immigrant workers into citizens. The migrants themselves want the permanent right to work in Germany far more than the right to vote in German elections. The migrants' home countries are not anxious to lose citizens (and possibly remittances) hence they protest any steps to expedite now cumbersome naturalization procedures.

The 1.3 million Turks are a special problem. Their Islamic religion and relative poverty alienate them from German society. Political divisions at home have been carried to Germany. Rightist "Grey wolves" are believed to extort money from Turkish workers and businesses to finance political agitation for an Islamic Turkish state. These right wing extremists are held responsible for attacks on more moderate and leftist Turks in Germany, but the closed Turkish communities in Germany are just as impenetrable as U.S. Chinatowns were 100 years ago. German authorities fear Turkish unrest, but find it difficult to anticipate and control it. Adolf Schmidt, head of the mining and energy workers union, complains that "re-Islamization" makes Turkish workers reluctant to quaff a beer with German workmates.

Integration proceeds under so many constraints and uncertainties that current measures cannot be said to represent a consistent policy. The main focus is on the children of foreign workers--the second generation. These children, many of whom have only visited their country of citizenship, are

caught between tradition-bound parents still clinging to the hope of returning and German authorities anxious to avoid an uneducated proletariat.

Migrant children are part of the immigration communities now common in industrial societies. Neither a part of the sending nor of the receiving country, they are "at home abroad" in their own ethnic communities. Traditional foods, religion, and other accoutrements are imported, discouraging "automatic" integration into the host society. As a result, relatively few become fluent in German, making (mandatory) German school so difficult that few finish middle schools. Fewer migrant children finish the high schools that open the doors to Germany's famed vocational training and apprenticeship system.

The German response to this complex integration problem is simple--teach the foreign children German. Most liberal observers call for the establishment of pre-kindergarten language classes so that foreign children have an "equal chance" when they begin kindergarten and elementary schools. Such efforts have not made migrant children fluent in German. Some German parents remove their children from schools with too many foreign children because "the ill-prepared foreigners slow down the whole class."

The schooling debate illustrates the fundamental dilemma of an integration without immigration policy. Each Land determines its own education policies. Only conservative Bavaria teaches each child in his or her own language through-out elementary school to encourage returns, while the other 10 Lander teach in German and only offer Muttersprache Turkish or Italian instruction after regular classes are over. An October 1980 conference of German mayors witnessed ringing denunciations of the Bavarian approach, arguing that this bilingual approach simply makes migrant children illiterate in two languages.

Not all migrant parents want their children to learn in German classrooms. Turks, 30 percent of the foreigners, are a special problem. Many Turkish parents do not want their children in German schools because they fear their children will abandon Islam. If the German authorities change their institutions to give Turkish parents incentives to help their children integrate, e.g., all girls schools for Turks, they risk the ire of natives for giving special and expensive treatment to a particular minority. On the other

hand, legal compulsion to participate in existing German schools brings the protest that Turks planning an eventual return do not want to see their children "corrupted" in German schools. This tension between integration and return causes some Turkish parents to send their daughters back to Turkey at age 10, leading some welfare organizations to charge that the parents' decisions are not in the best interests of their children and producing tricky state versus parents' rights issues.

Germany's migrants and her institutions now stand apart. The official integration policy is to change the migrants so they can effectively utilize existing education and training institutions. Germany is strongly resisting the notion that its institutions may have to change to absorb the foreigners, even though the first such changes are already apparent. In Cologne, the Ruhr cities, and parts of Berlin, school authorities are experimenting with cross-town busing to avoid the school segregation that results from housing patterns. Multi-lingual teaching is the official policy only in Bavaria, but even the after-hours classes in native languages are producing demands to import teachers, since "only fellow foreigners can truly maintain the child's original culture." Religious teachers are already imported (and paid by Germany) prompting protests that Turkish mullahs are being paid by German authorities to teach hatred for secular Germans. Parents (and the child's grades) decide whether 10-year olds will follow a college preparatory track, pursue vocational training, or simply obtain a general education. Some reforms urge the creation of Gesamtschule, modeled on American middle and high schools, to postpone decisions long enough for the migrant child to make his own decision.

Will Germany be able to integrate her 4.5 million foreigners? Will German integration strains resemble those of the American Civil Rights movement?

Integration may require several generations. Current integration programs represent efforts to head off future problems, not a response to migrant demands. Most migrants remain divided, having brought their religious, social and political differences with them and continuing to follow closely events of their faction at home.

The most important difference between Germany's migrants and America's

minorities is economic. Germany's guestworkers earn "above average" incomes for unskilled and semi-skilled workers because they eagerly accept night, weekend and overtime shifts. Despite a worrisome upward trend in migrant unemployment, the economic disadvantage of American minorities is not present in Germany.

Current Issues

Postwar Germany adopted a two-track immigration policy. Few permanent immigrants were anticipated but a liberal refugee provision of the Basic Law willingly accepted millions of ethnic Germans fleeing Eastern Europe. After 1960, immigration policy was determined by the short-term labor needs of employers. The current dilemma is deciding how to turn "backdoor" labor importation into an humanitarian immigration policy for the future.

The first strains are apparent. The recruitment stop of 1973 allowed family unification in Germany. Most dependents eligible to come to Germany have now arrived, but 20 years of migration has made the Third World aware of high German wages. One result is a flood of "refugees" through East Berlin (where there are no border checks on incoming persons) requesting political asylum in West Berlin or West Germany. Germans fleeing Hitler often had difficulty finding refuge, so current German refugee law places the burden of proof for rejecting a refugee's claim on the state, not the individual.

Germany has a steadily mounting backlog of refugee claims, 85,000 in the first six months of 1980. Hearings and appeals can last six or seven years. While waiting, applicants for refugee status are entitled to work permits and/or generous welfare payments. Since half the current wave of applicants are Turks (Turkish newspapers reproduce German refugee forms and explain how questions should be answered), Germany now requires Turks to obtain entry visas and has sharply curtailed access to work permits and welfare benefits to discourage asylee applicants who really want to work in Germany a few years. Over 90 percent of all asylum requests are rejected, prompting the conservative governments of Bavaria and Baden-Wurttenberg to demand "border judges" to rule on applications for refugee status before aliens get on German soil.

Illegal immigration is a persisting worry despite border controls, identity cards, police registration, and tough sanctions on employers hiring

illegal aliens (up to 3-1/2 years in jail plus $30,000 fines). Most estimates place the number of illegal aliens at 200,000 to 300,000--10 to 15 percent of the legal alien workforce. Germany's illegal aliens are concentrated in agriculture, restaurants and hotels, and construction firms. German unions (and some employers) are demanding stepped-up enforcement of existing laws.

Longer term issues are voting rights for non-citizen aliens and especially youth unemployment among aliens. Sweden and Ireland now permit some non-citizen aliens to vote in local elections. The larger European countries are likely to reject any attempts to extend voting rights to migrants because such an extension could inspire separatist movements (France) or upset delicate linguistic balances (Belgium). The German Bar Association, meeting in Berlin in September 1980, divided on the issue of aliens' voting rights. The Alien Lawyers section argued that resident aliens must have some voice in the decision-making process or 5 to 10 percent of the populations remains (dangerously) excluded from political participation. But the constitution specialists argued that the right to vote is not divisible--one has the right to participate in all elections or none. Both of Germany's major political parties have endorsed vague statements assuring aliens eventual voting rights but most observers believe that voting will be extended to non-citizens only after the EEC establishes some sort of community-wide voting system.

German unemployment rates have been low since the late 1950's, and youth unemployment is traditionally less than average. Economic changes and the presence of aliens promise to change this historic relationship. So far, youth unemployment primarily afflicts aliens who did not finish secondary school and failed to find an apprenticeship slot. The problem is that a dangerous gap is developing between these youths' expectations and the realities of the German labor market.

Labor Exporters

Germany's migrant workers are often reluctant to return home because economic conditions have worsened since massive labor emigration began. Most of the Southern European countries sending labor north were "showered with glittering coins" and a host of economic problems that increased their

dependence on rich neighbors. The result is a 180 degree turn in attitudes toward emigration in many sending country. Instead of welcoming the chance to export unemployment, some sending countries are demanding compensation for the "brawn drain."

Exporting labor provides jobs and incomes for many who may be unemployed at home. But the dangers of exporting labor are fivefold. The most immediate problem is that of matching German labor needs with a poor country's unemployed workers. Germans want the best and brightest workers, not poor peasants requiring months of training and adaptation. Since German wages are so high, it is not hard to attract a poor country's skilled workers.

Poor countries need to export unskilled labor, not the skilled labor needed for their own development. Incentives work in the opposite direction. Turkish experience illustrates the problem. One estimate now puts 85 percent of all skilled Turkish workers in Germany. Turkish productivity falls as women and children are drafted to replace men, encouraging many planners to throw up their hands and demand modern, imported, and expensive German machinery in new factories. The result is that Turkey, with 50 percent unemployment, and underemployment, sometimes has more modern plants than those employing Turks in Germany.

Labor shortages are most immediately felt in agriculture, since men typically leave their families in rural villages as they go first to Turkish cities and then abroad. In theory, the departure of men and the chance to live on savings from abroad should enable children to stay in school and permit small inefficient plots to be consolidated for a more productive agriculture. But jobs abroad are uncertain, so families keep their plots and work them, even half-heartedly, as insurance against layoff or injury to the breadwinner abroad. Instead of a dynamic and efficient agriculture, land is often farmed less intensively, increasing food imports and dependence on the rich countries dominating international grain exports.

Remittances from workers abroad are important, often covering a poor country's oil importing bill. But so much money injected into a poor country with bare shelves encourages a flood of consumer imports. Instead of investing remittance monies in non-trusted banks or even more shaky stock markets, guestworkers seek immediate gratification. The typical returned

migrant brings back a car filled with consumer durables, hoping to become a taxi driver. Few save patiently and invest in new job-creating factories.

Returning migrants seem to reject the manual work they did before departure and while abroad. The slogan "work in Germany but live in Turkey" encourages rapid expansion of the urban service sector. Land and housing prices escalate, accentuating inflation as too much money chases too few goods. Families unlucky enough not to have at least one guestworker are hurt by the higher prices wrought by the money from abroad.

Guestworker families may be richer but may not remain families in still traditional societies. So many men abroad leads to villages of women and children. Traditional patriarchial family structures break down and are not replaced. Many men live more or less permanently abroad with one wife but continue returning to an otherwise abandoned wife once a year. Some observers fear that children raised in such a vacuum will be a source of urban unrest, since their expectations are shaped by foreign jobs and wages but they have no chance to emigrate.

Remittances could be the spur to achieve an economic take-off. But there is nothing automatic in the flow of savings to guarantees that the extra one or two billion dollars will accelerate development. The lesson in most countries is that remittances are a short-run salve, not the beginnings of a long-run cure. Labor exporters must be very careful or the short-run help may mask distortions that can retard development.

Lessons for the U.S.

At least 20 different bills pending in Congress propose some sort of European-style guestworker program for the U.S. The justifications for these bills are threefold. The U.S.'s 2,000 mile border with Mexico cannot be effectively controlled without a repugnant Berlin-style wall. Even if control were possible, the U.S. has tolerated illegal Mexican entries for so long that it cannot abruptly close the Mexican "safety valve" when the scale of Mexican oil and gas reserves is becoming clear. The U.S. now has an "uncontrolled" alien labor program, so why not legalize reality and manage labor migration?

Some guestworker proponents argue that the U.S. needs alien labor "to do the jobs Americans won't do" (preserving good supervisory jobs in the

process), to prevent wage inflation, and to reduce looming social security deficits. These guestworker advocates believe that young and flexible Mexicans can fill labor market gaps, contribute payroll taxes to strained social welfare programs, and be returned before they pose any integration threat.

The counter-arguments are moral, economic, and practical. Opponents argue that a class of helots is morally-offensive in a democracy even if the individual aliens and their U.S. employers benefit. Economists note that alien labor is a subsidy to employers, a hidden subsidy that preserves jobs the U.S. doesn't want. Economists also question the need for alien labor in an era of high unemployment and very high youth unemployment. If tractable aliens are available, will employers really try to employ often recalcitrant native youth? Finally, opponents note that the U.S. has no national identity card to easily distinguish legal and illegal aliens nor sanctions on employers who knowingly hire illegally present aliens, making "control" a hollow promise.

Europe's 20-year experience with guestworkers yields three lessons for the American debate. First, labor flows are easier to start than to stop. Once labor flows are set in motion it is very difficult to reverse the incentives that tie aliens to employers. The longer aliens stay abroad, the more likely they are to obtain rights to bring their families. Dependents accompanying alien workers require housing and a variety of public and private services, giving rise to the integration versus return condundrum. The private services are sometimes provided by fellow aliens, creating more jobs in ethnic restaurants and entertainment establishments and making the migration process self-feeding. Information about jobs and the protection of an ethnic community can give rise to illegal immigration after labor recruitment is stopped. In short, the alien labor tap is far easier to open than close, especially in democracies concerned with human rights.

The second lesson from Europe is that the alien cure is short-lived. Alien labor is imported to curb labor shortages. There is nothing inherent in the guestworker process which naturally reduces future needs for alien labor. Instead, docile aliens prove addictive to employers, discouraging the search for labor-saving innovations and ways to improve wages and working conditions.

Aliens raised in a poor country may eagerly accept an industrial society's "dirty work," but their children reared abroad may reject their parents jobs. In this scenario, labor-importers are put on a labor-importing treadmill, forever condemned to import more and more exotic foreigners to do society's dirty work.

The third lesson from Europe involves the effects of emigration on poor labor exporters. In theory, the return of remittances and now trained migrants should spur economic development, eventually equalizing economic conditions between labor-sending and receiving areas. European experience shows that labor emigration is as likely to distort as accelerate economic development. The "best and brightest" tend to leave and stay abroad, since they first adapt to industrial life and its rewards. Remittances are both uncertain and uncontrolled, likely to be reduced just when emigration countries need them most and as likely to end up being spent for imported cars and consumer durables as invested in job-creating factories. Instead of making poor countries economically independent, labor emigration often increases the dependence of poor countries on their rich neighbors.

It is sometimes said that aliens bring out the worst instincts in people. The dilemma facing all industrial democracies is how to choose those few immigrants permitted to enter the doors of wealth. For most of her history, the U.S. permitted employers (labor needs) to determine the magnitude of immigration. Since 1952, American immigration law has given priority to humanitarian reasons for entry. But the reality of illegal immigration means that employer labor needs are responsible for perhaps twice as many illegal entrants as are admitted legally each year under an humanitarian law. The U.S.'s de jure humanitarian policy is being swamped by its de facto economic immigration.

In the debate over how to reform American immigration law one fact stands clear. The U.S. accepts more immigrants than any other country, twice as many as the rest of the world combined. Anti-immigrant feeling, the fortress mentality, is on the rise in both the U.S. and Europe. Employers want access to alien labor despite the general anti-immigrant mood, and promise that temporary guestworkers are all benefits and no costs. Guestworkers do provide immediate benefits to selected employers and consumers. The problem is that

costs inevitably follow in a democracy, costs that are borne by the whole society, not just the beneficiaries of guestworkers. The fundamental problem of guestworkers is this distributional one--benefits accrue to one group at one time but costs are deferred to everyone at a later date.

Immigrants, unlike guestworkers, receive training and education, get allowances to ease their integration, and only catch up to similarly-educated natives after 10 to 20 years. The fact that integration costs are apparent from the outset provides a built-in control mechanism that prevents one social group (employers or advocates for one ethnic or religious group) from expanding immigrant numbers too rapidly.

Immigration, especially illegal entry, is one of the unresolved problems for the 1980's. The U.S. is the world's immigration land. But the U.S. cannot continue accepting immigrants and refugees in its current haphazard fashion and escape future integration costs and civil rights dilemmas. Instead of searching for a short-term guestworker solution to the immigration dilemma, the U.S. could take the lead in finding ways to more effectively help potential migrants at home. If the industrial world does not act soon, it may be faced with the human wave envisioned by former Algerian President Boumedienne, who said that "no quantity of atomic bombs could stem the tide of billions . . . who will some day leave the poor southern part of the world to erupt into the relatively accessible spaces of the rich northern hemisphere looking for survival." The clock is ticking away.

STATEMENT BY ARNOLD MAYER
INTERNATIONAL VICE PRESIDENT AND DIRECTOR OF GOVERNMENT AFFAIRS
UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION (AFL-CIO)
BEFORE THE IMMIGRATION AND REFUGEE POLICY SUBCOMMITTEE
OF THE JUDICIARY COMMITTEE, UNITED STATES SENATE
OCTOBER 28, 1981

My name is Arnold Mayer. I am an International Vice President and the Director of Government Affairs of the United Food and Commercial Workers International Union (AFL-CIO).

The UFCW is a labor union with 1.3 million members organized in some 700 local unions throughout the United States and Canada. The UFCW and its local unions have collective bargaining agreements with tens of thousands of employers throughout the food processing, retail sales, leather, health, commercial, shoe, fur and other industries.

Mr. Chairman and Members of the Committee, we appreciate the opportunity to present the UFCW's views on the Reagan Administration's proposal to import some 50,000 "guestworkers" into the United States annually. But we must confess to you that we find it incredible that this plan is receiving serious legislative consideration in view of the current economic situation and the past experiences, here and abroad, with foreign worker importation programs.

The UFCW comments must be limited to a discussion of the concept of the importation since the Administration has not yet introduced any legislation. However, the concept is fraught with peril for the workers and communities of this nation. Here are some of the reasons why we feel the "guestworker" proposal is extremely dangerous and should be rejected.

HIGH AND RISING JOBLESSNESS

1. Unemployment in the United States has increased to 7.5 percent and is expected to rise sharply higher. Even the Reagan Administration has given up its Pollyanna forecasts and admitted that joblessness is going up fast and furiously.

Unemployment is particularly high among youth, minorities and unskilled workers --reaching into 40 percent rates in some categories. Yet, the Administration would import 50,000 "guestworkers" annually to compete especially for unskilled and semi-skilled jobs with these unemployed and other workers.

The competition would be particularly unfair to the United States workers, for the imported "guestworkers" would undoubtedly be carefully screened --as were the imported Mexican workers in the old bracero program. Those workers allowed to enter the United States would be prime labor. The United States

workers would follow the normal "S" curve of ability --as would any large random group.

REPETITION OF BRACERO PROBLEMS

2. Only 17 years after Congress ended the old bracero program because of its great economic harm to the United States workers and its many abuses, the start of a new bracero program is being considered. The old bracero program concerned only agriculture. Its direct damage was generally limited to that area of the economy. The new "guestworker" program apparently would range across the whole economy. The service industries would undoubtedly be a major target, along with agriculture. Other industries would not be spared.

The bracero program pitted the poor, the underemployed and the unemployed of Mexico against the poor, the underemployed and the unemployed of the United States. The result was the creation of still more poverty and misery.

Vast worker protections were supposed to be built into the legislation and regulations of the Mexican farm labor importation, but they looked far better on paper than in practice. They became more and more non-existent in practice as the years passed. Entire geographic areas and entire crops came to be known to growers and workers alike as "bracero-dominated." United States workers learned to stay away from them.

The braceros were a semi-captive work force. If they did not please their employers, they could be sent back to the poverty of Mexico with the added disgrace of having failed their families and their village. Their use depressed wages and working conditions in the United States.

Prime labor could be obtained very cheaply. Employers who were especially greedy were able to get back even the low wages from these single, lonely men who were imported without their families.

The problems caused by the bracero program are many and great. To remind the Committe of these dangers, another labor witness, Peter Allstrom of the AFL-CIO Food and Beverage Department, previously presented the testimony which I delivered before a Subcommittee of the House Agriculture Committee on March 29, 1963 --some two months before the House voted against extending the program. That statement on the bracero program is part of the Committee's record.

Two points about the end of the bracero program are important and instructive: The program could not be cut off immediately in 1963 because so many thousands of employers were hooked on the use of the semi-captive foreign workers. Growers had to have a year of grace to return to the normal labor market. In fact, some apologists for the Mexican farm labor importation program argued that

it should be continued despite its economic harm and abuses because many growers could not operate without it.

This dependence is important to remember when you are told that the "guestworker" plan is only a pilot program lasting two years. If you think there are strong employer pressures now for the initiation of the importation program, consider what it will be like once thousands of employers have tasted the use of prime, docile, semi-captive, foreign labor, which has prevented market forces or unions from raising wages and working conditions.

Once the bracero importation stopped in 1964, agricultural wages in the bracero-using areas sharply increased, the cultivation and harvest of some crops which were traditionally bracero-dominated became comparatively high paying jobs for United States workers and agricultural laborers were able to establish a stable and lasting union. None of these factors would have been possible with hundreds of thousands of foreign workers employed in United States agriculture and with hundreds of thousands more available in Mexico for importation.

MARKET FORCES, JOBS AND WAGES

3. The Reagan Administration has begun and apparently plans to continue the process to deprive the working poor of food stamps and other government aid programs. Its espousal of the "guestworker" program indicates that it desires even to turn the laws of supply and demand against these workers.

The Administration, which is so dedicated to free enterprise and the working of the market system when government regulations to protect consumers, workers and the environment are concerned, apparently does not want the free market to set wages without government interference. If a shortage of labor exists in any area or occupation, wages and working conditions should improve to attract an adequate supply of workers. Yet, the Reagan Administration proposed that the "invisible hand" be stayed by the federal government's importing tens of thosands -- and many more later -- prime, docile and semi-captive foreign workers.

The program would, in fact, represent a new subsidy for employers. The government would import workers and thereby depress the wages and working conditions which employers would have to pay and establish. The cost of the employer subsidy would be paid by a part of the population which has the least ability to do so.

WESTERN EUROPEAN EXPERIENCE

4. This proposal comes after Western European countries have had nearly two decades of experience with "guestworker" programs and greatly rue that they ever started the project. The European programs began during a period of

full employment. Now, when Western European countries suffer from great joblessness, the consequences of the importation pose serious and insoluble problems.

An underclass has developed and caused immense social, economic and political strains. Racial and ethnic hatreds exist and flourish. Violence between local workers and the foreign workers occur frequently. The Europeans abruptly stopped recruiting in 1973, but the difficulties stemming from the "guestworker" program remain and even increase.

A United States Labor Department publication, "Guestworker Programs: Lessons from Europe," provides excellent insights into the Western European experience. This September 1980 publication states flatly, "Despite the best intentions of governments, employers and individuals, guestworker programs wind up providing short-term economic benefits while creating future problems in language, schools, housing, integration and human rights."

The United States experience would undoubtedly be far worse than the European one. The "guestworker" program would begin not in a time of full employment -- as in Europe -- but in one of large scale and increasing joblessness. It would not begin as a generally approved plan but one imposed by government and employers upon workers who need jobs and increased income. It would produce short-term economic benefits only for employers.

UNWISE AND DANGEROUS PLAN

Mr. Chairman and Members of the Committee, we could go on reciting experiences and problems of the "guestworker" programs in this country and abroad. For example, deserving attention is the fact that despite efforts to discourage permanent residence among "guestworkers," many of these "temporary" workers stay in Western Europe and many of the braceros stayed in the United States. Also deserving discussion is the fact that the "guestworker" program does not stem illegal immigration, but actually encourages it.

But we do not intend to write a thesis on this subject. Suffice to say, the "guestworker" proposal is very unwise and extremely dangerous. It would depress wages, cause more unemployment and prevent unionization among United States workers. (Perhaps those factors are the proposal's real goals.) In addition, it would sharply increase the nation's social problems, increase ethnic and racial strife and create more violence.

This nation has enough economic and social problems. It does not need consciously to add to them with the initiation of a "guestworker" program. We appeal to you to reject this proposal which poses so many dangers and so much possible harm to our nation.

STATEMENT BY MARKLEY ROBERTS, ECONOMIST,
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
TO THE SENATE SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY
ON ADJUSTMENT OF STATUS OF ILLEGAL ALIEN RESIDENTS

October 29, 1981

The AFL-CIO supports a clear and positive program of adjustment of status for illegal aliens resident in the United States who have a demonstrated attachment to the community. Such a program to allow these illegal residents to become legal residents would take into account the length of time an alien has lived in the United States and also would take into account other factors, including subjective values such as compassion for the families involved.

The AFL-CIO supports a fair and generous program to legalize the status of illegal immigrants who have become part of the American community, but that program must operate in tandem with an effective program for cutting off the further flow of illegal immigration. Conditions consistent with a compassionate regard for the families involved should be set with a minimum of formality to make citizenship possible for individuals who presently have a strong attachment to this country while not encouraging illegal immigration in the future.

We have serious reservations about the Administration's proposal for "temporary resident status for illegal aliens." This proposal would permit legalization of illegal aliens who entered the U.S.A. prior to January 1, 1980 and have had continuous residence in the U.S.A. since that time. But such legalization would confer only "temporary resident status," and there would be a 10-year waiting period of continuous residence before this "temporary" status, renewed every three years, could be converted to permanent resident status after a demonstration of English language proficiency.

Under the Administration proposal, an alien with "temporary resident status" could legally work in the U.S.A., but could not bring his spouse or children to the U.S.A. and would not be eligible for a variety of social programs available to U.S. citizens, including unemployment compensation and food stamps.

We believe the basic preconditions of the Administration proposal that would unfairly apply to illegal immigrants and not to Cuban or Haitian refugees are wrong and that the waiting period, the denial of reunification of families,

payment of taxes without the earned rights accorded to other taxpayers, and a novel requirement of English language proficiency are so harsh as to belie the very concept of amnesty.

We believe citizenship should be possible for individuals who presently have a strong attachment to this country. Under the Administration's proposal, no such hope is held out to illegal residents, who, therefore will be far less likely to register with the Immigration and Naturalization Service, will be far more likely to continue in an illegal work status, and thus will be far more likely to continue to undermine the wages and working conditions and job opportunities for U.S. citizen workers.

As members of a nation of immigrants and as representatives of workers who built unions to escape exploitation, we in the American labor movement deeply sympathize with those who seek a better life in our country.

The overwhelming majority of illegal immigrants come to America to support themselves and to take a responsible role in society. Too often, unscrupulous employers prey upon these newcomers, forcing low wages and substandard working conditions upon them in an atmosphere of fear and intimidation with the threat of deportation. Such exploitation undermines wages and working conditions and job opportunities for U.S. citizen workers.

These problems are of acute concern to the U.S. labor movement which insists on safeguarding its hard-won standards of life and work. Unfortunately, illegal alien workers are highly vulnerable to exploitation because they are without many of the basic legal rights enjoyed by citizens and legal resident aliens.

This potential for economic exploitation, coupled with the labor movement's historic compassion for the unfortunate, makes it important that there be a strong yet fair U.S. immigration policy, including effective action to stop illegal immigration before starting the legalization-adjustment process for illegal resident aliens.

Thus, we support the proposal of the Select Commission on Immigration and Refugee Policy (II.C) for legalization of the status of illegal aliens resident in the United States, and, in line with the Commission's recommendation (II.C.3), we insist that the legalization process should not begin until the massive flows

of illegal aliens into the United States have been stopped. Otherwise, the legalization process would simply encourage additional flows of illegal aliens.

A reasonable and humane legalization program would adjust the status for illegal aliens with a demonstrated attachment to the community. While the length of time an alien has lived in the U.S.A. is one major factor to take into consideration, we believe other considerations, including subjective values such as compassion for the families involved are also of great importance. We would reject any mass deportations.

Let me repeat that curbing future illegal immigration -- including stronger border controls and interior enforcement, and more support for the Immigration and Naturalization Service -- must be accomplished before any legalization program is put into effect. There is a need to absorb the full effect of a decade of large-scale legal immigration and refugee flow and to regularize the status of illegal alien residents and their relatives before increasing the present levels of legal immigration.

We support continued emphasis on reunification of families, a humanitarian policy toward refugees, and due regard to safeguards for American workers as essential components of any long-run comprehensive immigration policy. The AFL-CIO will continue to work for an immigration policy that is humane, compassionate, and consistent with the needs and aspirations of American workers.

STATEMENT OF THE INTERNATIONAL LADIES' GARMENT WORKERS' UNION
ON AMNESTY FOR UNDOCUMENTED WORKERS
SUBMITTED TO THE UNITED STATES SENATE SUB COMMITTEE
ON IMMIGRATION AND REFUGEE POLICY,
FOR THE HEARINGS HELD THURSDAY, OCTOBER 29, 1981

For nearly a decade, the International Ladies' Garment Workers' Union has confronted the re-emergence of sweatshop production. By sweatshop, in this context, we do not refer to a legal non-Union factory where the minimum wage is paid; where health and safety laws are observed; where the workers have the unhibited right to seek other employment, if they choose. Rather, we use the term, sweatshop, in an absolutely literal sense. In fact, if anything, today's sweatshops are even more oppressive than the dank, dark, dirty industrial lofts that housed the garment industry at the turn of the Century.

The difference is due to a quirk in U.S. Immigration Law known as the Texas Proviso. This legal anomaly provides today's sweatshop owners with an enormous advantage, the ability to subject any undocumented worker to discovery, detention and deportation whenever he choses and with no risk whatsoever to himself. It is this ready potential to intimidate which creates the inexorable bond between the presence to undocumented workers and the rapid growth of sweatshops during the past decade.

It is for this reason that the International Ladies' Garment Workers' Union strongly supports a generous amnesty for all undocumented workers resident in the United States. In the absence of such an amnesty, we are left with two equally onerous alternatives: permit an estimated six million or more undocumented workers to constitute a permanent underclass or engage in a massive effort to apprehend and deport all who have entered illegally.

The latter option should be rejected out-of-hand. We do not have the capacity, at present, to conduct such an undertaking. The cost would be staggering. Much more distressing, however, would be the assault on individual liberties which would result. Moreover, the effect of such an action on bilateral relations, particularily with Mexico, would be disasterous. To permit undocumented workers to continue indefinitely in their present status is equally untenable. Not only would the undocumented suffer continuing exploitation, but Americans with similar job skills, those often referred to as the working poor, would be victimized as well.

The harm results from the unique and unfortunate status accorded undocu-

mented workers and the abysmal earnings which they are compelled to accept. Legal residents who perform similar work, among the 350,000 garment workers who belong to our Union,have seen their wages depressed by the growing pressure of illegal sweatshop competition. In isolated cases, legitimate factories, both Union and non-Union, have failed, leaving women many of whom are minority workers, unemployed and increasingly unemployable.

History demonstrates that every wave of immigration has initially had a similar effect. In the past, however, as immigrants have assimilated, their presence has invariably proven beneficial to the economic opportunities of all Americans. Once they gained an economic foothold and legal status, the willingness of past immigrants to accept substandard wages has rapidly diminished. As their standards of living improved, earlier generations of immigrants were able to buy more of what our economy produced, which in turn, increased demand and created jobs. They were able to save more, adding to the pool of investment capital, making our economy more productive. Some became entrepreneurs, contributing directly to the supply of goods and services and adding countless jobs in the process.

In time, the vast majority of immigrants became citizens. As such, they came to exercise their rights and responsibilities as Americans; the right to vote; the payment of their fair share toward the costs of government; the right to benefit from social legislation enacted to maintain the American living standard; the right to serve their fellow citizens as elected or appointed officials of government.

In the course of organizing in our industry, we have necessarily encountered factories which employ undocumented workers. Our Union's direct experiences have demonstrated that the undocumented have much in common with past generations of immigrants. Like their predecessors, undocumented workers have risked much in exchange for an opportunity for a better life, if not for themselves, then for their children. Once here, they have continued to sacrifice to obtain a foothold. There is ample evidence that as a group, the undocumented are both extraordinarily hard-working and, absent their efforts to avoid deportation, scrupulously honest. Most importantly, like the immigrants of earlier days, they seek more than anything else the chance to become part of the American community.

In speaking out in favor of a general amnesty, the International Ladies' Garment Workers' Union is cognizant that among the proposals to ameliorate our immigration dilemma, this is certainly the most controversal. We find it ironic, however, that those who are the most vehemently opposed to amnesty

have often had negligible direct exposure to undocumented workers or to the economic effects which accompany their presence.

We have heard the objections of those who contend that the American economy is not large enough to absorb the estimated six million undocumented workers. The fact that they are here and working, however, belies this objection. Moreover, if we should be concerned about the presence of an estimated six million undocumented workers, then we should be all the more alarmed by the net increase of more than 20 million which has taken place in the legal workforce since 1970. The difference, obviously, relates not to the size of either group but to the status which they are accorded within the economy.

Others have objected to amnesty because they feel that it is wrong to "reward" the act of illegal entry. An objection on this basis ignores the fact that until very recently the United States has never seriously attempted to stop illegal immigration. The Texas Proviso has created a defacto "half-open door" policy. Our unwillingness to provide the Immigration and Naturalization Service with the necessary resources has resulted in haphazard enforcement of our immigrant laws. Compared with other industrialized nations, our borders have been effectively wide open. Consequently, we have contributed greatly to our own dilemma and bear a corresponding responsibility for its remedy.

Other objections to amnesty have referred to the burden which it would place on our already overburdened social services. Yet, the legalization of status of undocumented workers would, in all likelihood, have the opposite effect. The better living standards and improved living and working conditions which would surely follow amnesty would also improve the general health of the undocumented population. This is an important consideration because the best available evidence indicates that the single social service heavily utilized by undocumented workers is emergency room care. Moreover, subsequent to amnesty, there would be no reason for undocumented workers to hide or remain in the subterranean economy. They would seek private sector employment which would provide benefits that would reduce their need to rely upon social services. As they left the "off-the-books" economy for legitimate employment, there would be a substantial increase in the tax base to support needed social programs.

Finally, we are aware of the admonition of those who fear that amnesty would induce even more undocumented workers to enter the United States. Implemented alone, amnesty could produce such an effect. Our Union however, proposes amnesty as part of the comprehensive policy which would include measures to

substantially improve border security and strict sanctions against the employment of undocumented workers subsequent to legalization of status of those who are already here. We firmly believe that a comprehensive program of this nature would solve the problem associated with the presence of a large underclass and would simultaneously inhibit a renewal of illegal immigration.

We are gratified that the present Administration has recognized the key role of amnesty in the solution to our current immigration dilemma. Our position, however, differs from the White House proposals in several respects.

The Administration has proposed amnesty for undocumented workers who have entered the United Stated prior to January 1, 1980. At the earliest, however, Congress will act on this proposal more than two years after the eligibility date. Using a conservative estimate of one million additional entries per year, it follows that the Administration's proposal would leave a residual of at least two million undocumented workers in the underground economy.

In many instances undocumented families already in this country would be split with some members eligible and some not. This would create an impossible situation and would no doubt diminish the attractiveness of amnesty for the eligible family members. As a result, less than 100% of those undocumented workers eligible would apply for amnesty and the size of the residual illegal population would be greater than two million.

This very sizable residual population would continue to have adverse effects on the earnings and employment opportunities for the American working poor. In addition, because of their geographic, cultural, and occupational proximity to undocumented workers eilgible for amnesty, this residual group would compete directly and, therefore, slow the assimilation process for those who have attained legal status. This would certainly be counterproductive.

The purpose of amnesty is to alleviate the underclass status of undocumented workers and thereby eliminate their need to participate in the subterranean economy. Our Union feels that it is essential for the amnesty to be as generous as possible. Ideally, amnesty should be extended to all resident undocumented in the United States on the date the action takes effect. Otherwise, we will not have solved the problem, but rather we will have created a truly permanent underclass.

Similarily, we take exception to other aspects of the Administration's proposals which would contribute to a less effective amnesty. Creation of the new status of "renewable term temporary resident" would, on the basis of our ex-

perience, further inhibit eligible undocumented workers from seeking amnesty. Undocumented workers would be required to apply for this new status every three years with no guarantee of renewal. The process would be a repeated one because, according to the Administration's proposal, undocumented workers could apply for permanent residence only after 10 years of continuous presence in the United States. While accruing the necessary residency period, former undocumented workers would pay social security and other taxes but would be ineligible for welfare, federally assisted housing, food stamps or unemployment compensation. Moreover, they would be unable to have their spouses or children who were, themselves, ineligible for amnesty, enter the country legally. This latter point is particularily distressing. For an Administration which has emphasized family unity to actively support measures which would separate wage-earners from spouse and children for as long as ten years is cruel, unusual and beyond the limit of understanding.

In place of the limited amnesty which the Administration has proposed our Union recommends a full and generous legalization program leading to permanent resident status and ultimately citizenship.

Our history is rich with the contributions of immigrants. Their contributions were enhanced because of the freedom of opportunity which America afforded them. To place unusual constraints on the ability of the current undocumented population to assimilate does not lessen our immediate problem and is a denial of their potential to contribute as much as the immigrants from whom we are descendant.

PREPARED STATEMENT OF
MR. ARNOLDO S. TORRES
EXECUTIVE DIRECTOR
LEAGUE OF UNITED LATIN AMERICAN CITIZENS (LULAC)

OCTOBER 29, 1981

GOOD MORNING, MR. CHAIRMAN, MEMBERS OF THE HOUSE SUBCOMMITTEE ON IMMIGRATION AND REFUGEE POLICY. MY NAME IS ARNOLDO S. TORRES. I AM THE NATIONAL EXECUTIVE DIRECTOR OF THE LEAGUE OF UNITED LATIN AMERICAN CITIZENS (LULAC) WHICH IS THIS COUNTRY'S OLDEST AND LARGEST HISPANIC ORGANIZATION WITH A MEMBERSHIP OVER 100,000 ORGANIZED IN 44 STATES. WE VERY MUCH APPRECIATE THE OPPORTUNITY TO COME BEFORE YOU TODAY TO DISCUSS OUR CONCERNS AND INTERESTS WITH PROPOSALS TO LEGALIZE THE STATUS OF U.S. RESIDENTS PRESENTLY IN THIS COUNTRY ILLEGALLY, A PROCESS COMMONLY REFERRED TO AS AMNESTY OR LEGALIZATION.

AS MANY OF YOU ARE AWARE, THE SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY STRONGLY INDICATED IN ITS REPORT THAT THE EXISTENCE OF A SIGNIFICANT POPULATION OF UNDOCUMENTED PERSONS "SHOULD NOT BE TOLERATED." THE COMMISSION STATED THAT ....."THE COSTS TO SOCIETY OF PERMITTING A LARGE GROUP OF PERSONS TO LIVE IN ILLEGAL, SECOND-CLASS STATUS ARE ENORMOUS ..... ATTEMPTS AT MASSIVE DEPORTATION WOULD BE DESTRUCTIVE OF U.S. LIBERTIES, COSTLY, LIKELY TO BE CHALLENGED IN THE COURTS AND IN THE END INEFFECTIVE." IN ESSENCE, THE COMMISSION WAS SAYING THAT LEGALIZING THE STATUS OF RESIDENT UNDOCUMENTED IS IN THE NATIONAL INTEREST OF THIS COUNTRY AND WOULD ENHANCE ENFORCEMENT OF U.S. IMMIGRATION LAW BY FOCUSING ITS ATTENTION ON THE NEW ARRIVALS AS OPPOSED TO DISRUPTING A POPULATION WHICH HAS LONG RESIDED IN THIS COUNTRY AND HAS BUILT EQUITY. IN ADDITION, A BETTER UNDERSTANDING OF THE DYNAMICS UNDERLINING ILLEGAL IMMIGRATION FLOWS COULD BE FACILITAED BY THOSE LEGALIZING THEIR STA-

TUS. THE SOCIETAL, HUMANITARIAN AND PRACTICAL BENEFITS OF LEGALIZING THE ILLEGAL STATUS OF RESIDING UNDOCUMENTED WORKERS CERTAINLY ARE MORE ATTRATIVE THAN THE EXTREMELY DISRUPTIVE, LEGALLY CHALLENGING AND UNFEASIBLE PROCESS OF IDENTIFYING AND DEPORTING THESE INDIVIDUALS.

IN ADDITION, THE COMMISSION EMPHASIZED THE NEED TO STREAMLINE AND SIMPLIFY WHATEVER SYSTEM/PROCESS INSTITUTED FOR LEGALIZATION. IT IS IMPERATIVE THAT MAXIMUM PARTICIPATION BE ACHIEVED BY WHATEVER PROCESS ADOPTED FOR OTHERWISE THE EFFORT WILL FAIL TO ACCOMPLISH ITS INTENDED OBJECTIVE OF REMOVING VULNERABILITY AND THE STIGMA OF SECOND-CLASS CITIZENSHIP.

IN VIEW OF THESE INTERESTS AND CONCERNS, WE WERE PLEASED TO SEE THAT THE ADMINISTRATION HAD ENDORSED THE NEED FOR A LEGALIZATION PROGRAM IN ITS BILL-S-1765. HOWEVER, WE SERIOUSLY QUESTION THE EQUITY AND EFFECTIVENESS OF THE ADMINISTRATION'S PROPOSED PROGRAM. RATHER THAN PROPOSING AN EXPEDITIOUS AND REALISTIC LEGALIZATION PROGRAM, WE CONSIDER THE ADMINISTRATION AS PRESENTING SIGNIFICANT PROBLEMS OF INEQUITY WHILE FALLING EXTREMELY SHORT OF MAXIMIZING PARTICIPATION. WHAT HAS BEEN PROPOSED IS A TEN-YEAR WAITING PERIOD DURING WHICH TIME UNDOCUMENTED WORKERS WOULD BE GRANTED A NEW STATUS OF "RENEWABLE TERM TEMPORARY RESIDENT" EVERY THREE YEARS UNTIL THE TEN YEARS ARE ATTAINED. ALSO, THE NEW STATUS WOULD NOT ALLOW FOR FAMILY REUNIFICATION, WOULD REQUIRE THOSE IN THIS STATUS TO PAY ALL TAXES UNDER U.S. LAW WHILE NOT ALLOWING ANY ELIGIBILITY FOR NEEDED SOCIAL SERVICES. IN ADDITION, THIS PROPOSAL DOES NOT SPEAK TO WHAT RIGHTS THESE LEGALIZATION PARTICIPANTS WOULD HAVE ONCE IN THEIR NEW STATUS, WHAT REDRESS WOULD THEY HAVE AVAILABLE IN CASE OF EMPLOYER ABUSE OR EXPLOITATION? WILL EMPLOYMENT AT MINIMUM WAGE BE SUFFICIENT FOR SUBSTANCE WHEN IT HAS ALREADY BEEN DETERMINED THAT THIS IS BELOW THE POVERTY LEVEL? WHAT WOULD BE GROUNDS FOR EXPULSION

FROM THIS STATUS ONCE IN THE PROGRAM? WOULD EMPLOYERS OF THESE NEW "TEMPORARY RESIDENTS" CONTROL THE FATE OF WHETHER THEY CONTINUE TO PARTICIPATE OR NOT? WILL THE REQUIREMENT TO "READ, WRITE AND SPEAK WORDS IN ORDINARY USAGE IN THE ENGLISH LANGUAGE" BE APPLIED MORE STRINGENTLY, THAN IT IS PRESENTLY (SEC. 312/INA), TO THOSE WISHING TO ADJUST THEIR STATUS? WE ARE SERIOUSLY CONCERNED WITH THESE ISSUES FOR UNDER THIS PROPOSAL THERE IS NO REMOVAL OF THE VULNERABILITY WHICH HOVERS OVER THE UNDOCUMENTED. THE NEED TO RENEW THIS TEMPORARY STATUS WOULD PRESENT CONSTANT FEAR OF DEPORTATION AND WOULD MOST PROBABLY RE-ENFORCE AND PERPETUATE THIS VULNERABILITY. FURTHERMORE, IS IT NOT A SECOND-CLASS TYPE OF CITIZENSHIP TO BE REQUIRED TO PAY ALL U.S. TAXES WHILE NOT BEING ELIGIBLE TO DERIVE SOME OF THE BENEFITS ASSOCIATED WITH THIS RESPONSIBILITY? IS THIS NOT A GOOD EXAMPLE OF "TAXATION WITHOUT REPRESENTATION?" IT IS FOR THESE REASONS AND CONCERNS THAT WE HAVE LABELED THIS LEGALIZATION PROPOSAL AS BEING TANTAMOUNT TO SERFDOM FOR THERE IS NO EQUITY. WHILE MANY WOULD REJECT THIS CONTENTION AND RESPOND "WELL, ISN'T THIS BETTER THAN WHAT IS GOING ON NOW?" WE WOULD RESPOND THAT MANY UNDOCUMENTED WOULD VIEW THIS PROPOSAL AS BEING POTENTIALLY WORSE ~~FOR~~ IF WHEN COMING FORWARD THEY HAVE IDENTIFIED THEMSELVES TO A PROGRAM WHICH PERPETUATES A LEGALLY SANCTIONED PROGRAM OF CONTINUED EXPLOITATION.

WE RECOGNIZE THAT MANY ARE OF THE OPINION THAT THERE ARE LAWS DESIGNED TO PREVENT THIS ABUSE AND EXPLOITATION FROM TAKING PLACE. HOWEVER, IT IS AN UNFORTUNATE FACT THAT MANY OF THESE LAWS ARE POORLY ENFORCED IF ENFORCED AT ALL. IN ADDITION, THERE EXISTS SIGNIFICANT DISCRIMINATION AGAINST HISPANIC-AMERICANS WHO ARE U.S. CITIZENS. ANOTHER CONCERN WHICH GREATLY DISTURBS US IN DEALING WITH THE PROTECTION OF RIGHTS IS WHETHER THIS ADMINISTRATION IS SERIOUSLY COMMITTED TO THE PROTECTION OF CIVIL AND HUMAN RIGHTS IN VIEW OF ITS EFFORTS TO RELAX MANY

CIVIL RIGHT STATUTES. ALSO, WILL OR CAN IT APPROPRIATE THE NECESSARY SUMS OF FEDERAL FUNDS REQUIRED TO INCREASE ENFORCEMENT OF THESE LAWS?

THE REASON FOR THESE CONCERNS ARISES PRIMARILY AS A RESULT OF THE CREATION OF THE NEW STATUS OF "RENEWABLE TERM TEMPORARY RESIDENT." THIS TEMPORARY STATUS UNDERSCORES THE NEED TO INSURE THE PROTECTIONS OF THESE INDIVIDUALS' RIGHTS, HOWEVER, IF SUCH STATUS DID NOT EXIST BUT RATHER THE PROGRAM ALLOWED FOR A MUCH SIMPLER AND QUICKER LEGALIZATION PROCESS, THESE CONCERNS AND FEARS WOULD DECREASE SIGNIFICANTLY.

OTHER PRACTICAL CONSIDERATIONS WHICH MUST BE EXAMINED ARE WHETHER THE IMMIGRATION AND NATURALIZATION SERVICE (INS) HAS THE CAPABILITIES OF DEALING WITH THIS PROPOSAL WHICH REQUIRES SIGNIFICANT RECORD KEEPING. IT APPEARS THAT THE FACT THAT THE INS IS IN A CONTINUAL STATE OF ADMINISTRATIVE CHAOS HAS BEEN IGNORED BY THE ADMINISTRATION IN ITS LEGALIZATION PROPOSAL. THE INS CANNOT HANDLE THE PAPERWORK ASSOCIATED WITH LEGAL IMMIGRATION, NOT EVEN TO MENTION UNDOCUMENTED WORKERS. WE WOULD BE HARD PRESSED TO BELIEVE THAT THE INS COULD ADEQUATELY AND EFFECTIVELY MAINTAIN A SYSTEM WHICH WILL REQUIRE CONTINUAL UPDATING OF THE LEGAL TEMPORARY STATUS OF MILLIONS OF PEOPLE. ALSO, WE MUST CONSIDER THE EXTREMELY POOR IMAGE THE INS HAS WITH THE HISPANIC COMMUNITY IN GENERAL, DUE TO CELEBRATED ABUSE CASES AND NEIGHBORHOOD RAIDS. THERE WOULD BE A MAJOR FACTOR OF DISTRUST AND RELUCTANCE ON THE PART OF UNDOCUMENTED WORKERS TO OPENLY COME FORWARD AND PARTICIPATE IN A LEGALIZATION PROGRAM.

IN VIEW OF THESE CONCERNS FOR THE INEQUITIES OF THE PROPSED ADMINISTRATION'S LEGALIZATION PROGRAM, IN VIEW OF THE UNANSWERED QUESITONS WHICH NEED TO BE ADDRESSED AS TO THE DETAILS AND MECHANICS OF HOW SUCH A PROGRAM WOULD TAKE PLACE,

AND IN VIEW OF THE KNOWN ADMINISTRATIVE, MANAGEMENT AND IMAGE SHORTCOMINGS AND INABILITIES OF THE INS, WE WOULD CONCLUDE THAT THIS PROPOSAL WILL NOT REMOVE THE SECOND-CLASS STIGMA ATTACHED TO UNDOCUMENTED WORKERS AND WOULD NOT HAVE THE MAXIMUM PARTICIPATION NECESSARY TO BE A SUCCESSFUL PROGRAM. A LEGALIZATION PROGRAM MUST BE QUICK, SIMPLE AND EQUITABLE. IT CANNOT SEPARATE THE IMMEDIATE FAMILY, IT CANNOT PERPETUATE AN ENVIRONMENT CONDUCIVE TO EXPLOITATION, AND IT MUST BE FAIR AND EQUITABLE AND MINIMIZE THE RISKS FOR VIOLATIONS OF CIVIL AND HUMAN RIGHTS. IT MUST NOT FURTHER BURDEN INS CAPABILITIES NOR MUST IT ESTABLISH EXPECTATIONS OR RESPONSIBILITIES BEYOND INS' PRESENT STRUCTURE. LULAC THEREFORE WOULD RECOMMEND THE FOLLOWING AS AN ALTERNATIVE TO THE ADMINISTRATION'S LEGALIZATION PROGRAM:

LEGAL STATUS FOR UNDOCUMENTED INDIVIDUALS CURRENTLY RESIDING IN THE U.S.

1. PERMIT UNDOCUMENTED INDIVIDUALS INCLUDING FAMILY MEMBERS (I.E. SPOUSE, MINOR CHILDREN) PRESENT IN THE U.S. PRIOR TO JANUARY 1, 1980 TO LEGALIZE THEIR STATUS BY APPLYING FOR PERMANENT RESIDENT ALIEN STATUS. ELIGIBILITY CRITERIA WOULD REQUIRE:

   A. TWO-YEAR CONTINUOUS RESIDENCY IN U.S.
   B. VOID OF ANY FELONIOUS CRIME.

2. RELATIVES OF IMMEDIATE FAMILY COULD APPLY FOR PERMANENT RESIDENT ALIEN STATUS THROUGH ESTABLISHED IMMIGRANT PREFERENCE CATEGORIES.

3. PERMIT UNDOCUMENTED INDIVIDUALS PRESENT IN THE U.S. WHO WERE:

   A. UNABLE TO DEMONSTRATE NECESSARY DOCUMENTATION TO LEGALIZE STATUS BUT WERE IN U.S. PRIOR TO JANUARY 1, 1980, OR

B. Not residing in U.S. prior to January 1, 1980, but after January 1, 1980 and before the date of enactment of enabling legislation, would:

1. Be required to work for 2 year period;
2. Be covered by all U.S. labor laws governing wages and working standards, as well as other laws governing citizens;
3. Pay Social Security, Income and all other required taxes;
4 Be eligible and have access to education, medical and other needed services;
5. After residing in U.S. for 2 year period, could, providing they are not otherwise excludable, apply for permanent resident alien status.

In comparison to the Administration's proposal, this approach would be quick, simple and minimize the paperwork required of the INS. It does not provide for a ~~temporary~~ "renewable temporary status" but rather requires two-year continuous residency requirement. Instead of separating the immediate family as provided for in Sec. 101(d) it would provide for spouse and minor children of applicant to be included in the legalization. We feel strongly about this provision for the basis of American immigraiton policy as well as legalization programs ~~have~~ has been family reunification. It should be recognized that separation of family would be extremely detrimental to the over-all process and certainly negate the success of legalization. In addition, relatives of immediate family could apply according to established preference categories.

Several experts have proposed that undocumented individuals residing in this country should be allowed to adjust

THEIR STATUS IMMEDIATELY. THIS WOULD FURTHER REDUCE THE TIME AND POTENTIAL PROBLEMS OF SUBSTANTIATING PROPER DOCUMENTS VALIDATING RESIDENCY IN THIS COUNTRY. LULAC WOULD NOT OPPOSE SUCH A PROPOSAL.

FURTHERMORE, OUR PROPOSAL ADDRESSES THE GROUP OF UNDOCUMENTED WHO EITHER WAS UNABLE TO SUBSTANTIATE CONTINUOUS RESIDENCY BUT WAS HERE BEFORE JANUARY 1,1981 AND/OR ENTERED THE COUNTRY AFTER THIS DATE BUT BEFORE ENABLING LEGISLATION WAS PASSED. FOR PURPOSES OF CONSISTENCY AND EQUITY WE HAVE PROPOSED THIS GROUP BE REQUIRED TO WORK, IF PHYSICALLY ABLE, FOR A TWO-YEAR PERIOD WHILE HAVING TO ABIDE BY ALL U.S. LAWS AND BEING GRANTED ALL RIGHTS AND PRIVILEGES WHICH ACCOMPANY THESE RESPONSIBILITIES. IT SHOULD BE WELL UNDERSTOOD THAT INDIVIDUALS IN THIS STATUS ARE NOT TO BE CONSIDERED A POTENTIAL POOL OF TEMPORARY WORKERS. WE HAVE INCLUDED THESE PROVISIONS TO INSURE MAXIMUM PARTICIPATION OF THIS ONE TIME LEGALIZATION PROGRAM.

A CONCERN WHICH HAS REPEATEDLY BEEN RAISED IS HOW WOULD POTENTIAL INCREASES IN FLOW OF UNDOCUMENTED BE CONTROLLED ONCE ANNOUNCEMENT OF LEGALIZATION IS MADE? WE WOULD RESPOND THAT THERE IS NOT DOCUMENTATION, NO HISTORICAL PRECEDENT, NO DATA ON OTHER SUCH PROGRAMS WHICH WOULD LEAD ANYONE TO CONCLUDE THAT ADDITIONAL FLOWS WOULD DEVELOP IN ORDER TO PARTICIPATE IN THIS PROGRAM. HOWEVER, WE WOULD ADVISE THOSE WITH SUCH VIEWS TO FOCUS BI-LATERAL LABOR INTENSIVE AND ECONOMIC DEVELOPMENT PROGRAMS IN THE FIVE STATES IN MEXICO WHICH SERVE AS THE MAJOR SOURCES OF UNDOCUMENTED WORKERS TO THIS COUNTRY. THIS SHOULD BE THE SAME APPROACH USED WITH OTHER COUNTRIES THAT HAVE HIGH PUSH FACTORS. IT MUST BE RECOGNIZED THAT ONLY 40% OF UNDOCUMENTED INDIVIDUALS ORIGINATE IN MEXICO. REGARDLESS OF THE LEGALIZATION SCHEME WHICH IS EVENTUALLY ADOPTED BY CONGRESS ONE MUST CONSIDER THE STRONG POSSIBILITY THAT PERHAPS SOME UNDOCUMENTED WILL NOT DESIRE

TO BECOME RESIDENT ALIENS AND EVENTUALLY CITIZENS, BUT RATHER DESIRE TO BE ALLOWED TO CONTINUE WIEKING AND RETURNING TO MEXICO, HOW WILL WE RESPOND TO THIS SITUATION?

IN CLOSING, WE WOULD EMPHASIZE THAT A LEGALIZATION PROGRAM SHOULD NOT BE IMPLEMENTED AS THE LAST PHASE OF AN OVER-ALL ENFORCEMENT APPROACH WHICH WOULD HAVE INCREASED INS BORDER ENFORCEMENT AND EMPLOYER SANCTIONS/I.D. IN PLACE PRIOR TO ITS ENACTMENT. WE SUBMIT TO YOU THAT THIS TIMING WOULD BE EXTREMELY COUNTER-PRODUCTIVE TO THE DESIRED SUCCESS OF A LEGALIZATION PROGRAM. THIS APPROACH WOULD CREATE AN ENVIRONMENT IN WHICH UNDOCUMENTED WOULD BE TARGETED FOR THEIR ILLEGAL STATUS THEN SUDDENLY WOULD BE ASKED TO COME FORWARD IN ORDER TO LEGALIZE THEIR STATUS. THIS WOULD BE VIEWED AS CONTRADICTORY AND CONFUSING TO MOST. WHILE RESULTING IN POOR LEVELS OF PARTICIPATION IN THE PROGRAM. IT MUST BE EMPHASIZED THAT WE MUST CONSIDER THE PRACTICAL EFFECTS AND CONSEQUENCES OF THE PROGRAM DESIGN, FOR WE MUST BE MORE CONCERNED WITH THESE CONSIDERATIONS THEN WITH CONCEPTUAL SPECULATIONS.

WE WOULD UNDERSCORE THE IMPORTANCE OF HAVING COMMUNITY BASED ORGANIZATIONS INTEGRATED IN THE LEGALIZATION PROCESS DUE TO THEIR RAPPORT, TRUST AND LOCATION WITH UNDOCUMENTED INDIVIDUALS. THESE GROUPS, WHICH WOULD INCLUDE HUNDREDS OF LOCAL LULAC COUNCILS, WOULD SERVE AS EDUCATIONAL OUTREACH EFFORTS TO ENCOURAGE PARTICIPATION AS WELL AS CONDUCTING PRELIMINARY REVIEWS OF ELIGIBILITY STANDARDS. WE WOULD CAUTION THIS SUBCOMMITTEE THAT THE LONGER WE WAIT FOR LEGALIZATION THE GREATER THE PRESSURES, COMPLEXITIES, AND DEMAND FOR OTHER ACTIONS. QUICK OR SIMULTANEOUS ENACTMENT WITH OTHER EFFORTS WOULD GREATLY ENHANCE THE CHANCES FOR MAJOR SUCCESS AND WOULD THUS ALLOW FOR CONCENTRATION OF ENFORCEMENT ON NEW ARRIVALS. IN OUR OPINION THIS IS A MORE SOUND AND REALISTIC PUBLIC POLICY TO IMPLEMENT.

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